

# CHAPTER 7077

## MINNESOTA POLLUTION CONTROL AGENCY

### WATER QUALITY DIVISION

#### WASTEWATER TREATMENT ASSISTANCE

7077.0100	PURPOSE.	7077.0281	COMMISSIONER CERTIFICATION TO AUTHORITY.
7077.0105	DEFINITIONS.	7077.0284	INSPECTIONS.
<b>PROJECT PRIORITY PROCESS</b>		7077.0286	COMPLETION OF CONSTRUCTION AND INITIATION OF OPERATION.
<b>FINANCIAL ASSISTANCE PROGRAM</b>		7077.0288	PROJECT PERFORMANCE.
7077.0111	PURPOSE.	7077.0290	COMMISSIONER'S NOTIFICATION OF PERFORMANCE.
7077.0115	PROJECT PRIORITY LIST.	7077.0292	REQUEST TO WITHHOLD FINANCIAL ASSISTANCE PAYMENTS.
7077.0165	PRIORITY POINTS FOR TYPE OF PROJECT.	<b>COMBINED SEWER OVERFLOW ABATEMENT PROGRAM</b>	
7077.0167	TOTAL POINTS FOR WASTEWATER TREATMENT SYSTEMS WITH AN NPDES PERMIT.	7077.0300	PURPOSE.
7077.0169	IMPACT FACTOR FOR WASTEWATER TREATMENT SYSTEMS WITH AN NPDES PERMIT.	7077.0310	APPLICATIONS.
7077.0171	USE FACTOR FOR WASTEWATER TREATMENT SYSTEMS WITH AN NPDES PERMIT.	7077.0315	FINANCIAL ASSISTANCE AWARDS.
7077.0173	CONDITION FACTOR FOR WASTEWATER TREATMENT SYSTEMS WITH AN NPDES PERMIT.	7077.0320	CHANGE ORDERS.
7077.0175	EXTRA POINTS FOR WASTEWATER TREATMENT SYSTEMS WITH AN NPDES PERMIT.	7077.0325	PROJECT PERFORMANCE.
7077.0176	PENALTY FACTOR FOR WASTEWATER TREATMENT SYSTEMS WITH AN NPDES PERMIT.	7077.0330	PAYMENT OF STATE FINANCIAL ASSISTANCE.
7077.0177	TOTAL POINTS FOR WASTEWATER TREATMENT SYSTEMS WITH AN SDS PERMIT.	<b>CORRECTIVE ACTION GRANTS PROGRAM</b>	
7077.0179	IMPACT FACTOR FOR WASTEWATER TREATMENT SYSTEMS WITH AN SDS PERMIT.	7077.0500	PURPOSE.
7077.0181	USE FACTOR FOR WASTEWATER TREATMENT SYSTEMS WITH AN SDS PERMIT.	7077.0505	DEFINITION.
7077.0185	EXTRA POINTS FOR WASTEWATER TREATMENT SYSTEMS WITH AN SDS PERMIT.	7077.0510	ELIGIBILITY FOR PARTICIPATION.
7077.0186	PENALTY FACTOR FOR WASTEWATER TREATMENT SYSTEMS WITH AN SDS PERMIT.	7077.0515	ELIGIBLE AND INELIGIBLE COSTS.
7077.0187	TOTAL POINTS FOR WASTEWATER TREATMENT SYSTEMS WITHOUT AN NPDES OR SDS PERMIT.	7077.0520	REQUIREMENTS PRIOR TO APPLICATION.
7077.0189	IMPACT FACTOR FOR WASTEWATER TREATMENT SYSTEMS WITHOUT AN NPDES OR SDS PERMIT.	7077.0525	CONTRACT ASSIGNMENT.
7077.0191	USE FACTOR FOR WASTEWATER TREATMENT SYSTEMS WITHOUT AN NPDES OR SDS PERMIT.	7077.0530	CONTRACT BENEFICIARY.
7077.0195	EXTRA POINTS FOR WASTEWATER TREATMENT SYSTEMS WITHOUT AN NPDES OR SDS PERMIT.	7077.0535	APPLICATION.
7077.0196	PENALTY FACTOR FOR WASTEWATER TREATMENT SYSTEMS WITHOUT AN NPDES OR SDS PERMIT.	7077.0540	CERTIFICATION OF APPLICATION FOR AWARD.
7077.0197	RESOLUTION OF EQUAL POINT RATINGS.	7077.0545	GRANT AMENDMENTS.
7077.0272	FACILITIES PLAN.	7077.0550	CHANGE ORDERS.
7077.0274	PLANS AND SPECIFICATIONS.	7077.0555	PAYMENTS.
7077.0276	ESSENTIAL PROJECT COMPONENTS.	7077.0560	RECOVERY OF GRANT FUNDS.
7077.0278	INTENDED USE PLAN.	<b>CAPITAL COST COMPONENT PROGRAM</b>	
7077.0280	CERTIFICATION SUBMITTAL REQUIREMENTS.	7077.0600	PURPOSE.
		7077.0610	ELIGIBILITY.
		7077.0615	GRANT APPLICATIONS.
		7077.0620	SELECTION OF ELIGIBLE GRANTEEES.
		7077.0625	AMOUNT OF GRANT AWARD.
		7077.0640	GRANT CONDITIONS.
		7077.0650	GRANT PAYMENT.
		<b>INDIVIDUAL SEWAGE TREATMENT SYSTEMS GRANTS PROGRAM</b>	
		7077.0700	PURPOSE.
		7077.0705	DEFINITIONS.
		7077.0710	ELIGIBILITY.
		7077.0713	FUNDING LIST.
		7077.0720	APPROVAL OF INDIVIDUAL SEWAGE TREATMENT PERSONNEL.
		7077.0725	GRANT APPLICATION.
		7077.0730	ELIGIBLE COSTS.
		7077.0735	AMOUNT OF GRANT AWARD.
		7077.0745	CERTIFICATION OF AWARD.
		7077.0750	PAYMENT CONDITIONS.
		7077.0755	PAYMENTS.
		7077.0760	TERMINATION OF GRANT.
		7077.0765	SUBSEQUENT GRANTS.
		<b>PROCEDURAL REQUIREMENTS</b>	
		7077.2000	DISPUTES.
		7077.2005	PROCEDURAL RULES AND APPEALS.
		7077.2010	VARIANCES.

#### 7077.0100 PURPOSE.

This chapter provides for the Minnesota Pollution Control Agency's administration of financial assistance programs for the construction of municipal wastewater treatment systems. The programs in this chapter are:

A. the financial assistance program, consisting of:

# MINNESOTA RULES 1995

1163

## WASTEWATER TREATMENT ASSISTANCE 7077.0105

(1) the wastewater infrastructure fund, Minnesota Statutes, section 446A.071;

(2) the state revolving fund, Minnesota Statutes, section 446A.07;

(3) the state independent grants program for grants awarded on or after July 1, 1990, under Minnesota Statutes, section 116.18, subdivision 3a;

B. the combined sewer overflow program for grants awarded on or after July 1, 1990, under Minnesota Statutes, section 116.162;

C. the corrective action grants program for grants awarded on or after July 1, 1990, according to Minnesota Statutes, section 116.181;

D. the capital cost component grants program for grants awarded on or after July 1, 1990, under Minnesota Statutes, section 116.18, subdivision 3b; and

E. the individual sewage treatment systems grants program for grants awarded on or after July 1, 1990, under Minnesota Statutes, section 116.18, subdivision 3c.

Parts 7077.0111 to 7077.0292 apply to the financial assistance program.

Parts 7077.0300 to 7077.0330 apply to the combined sewer overflow program.

Parts 7077.0500 to 7077.0560 apply to the corrective action grants program.

Parts 7077.0600 to 7077.0660 apply to the capital cost component grants program.

Parts 7077.0700 to 7077.0765 apply to the individual sewage treatment systems grants program.

**Statutory Authority:** *MS s 116.07; 116.182*

**History:** *15 SR 288; 17 SR 3097*

### 7077.0105 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of chapter 7077, the terms defined in this part and in Minnesota Statutes, chapters 115 and 116, have the meanings given 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 an insurance policy that provides the minimum amount of coverage for the corresponding estimated project construction cost, as determined from the following table, and that is maintained for a minimum of two years after initiation of operation of the project.

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

Subp. 4. [Repealed, 17 SR 3097]

Subp. 5. **Agency.** "Agency" means the Minnesota Pollution Control Agency.

Subp. 6. **Authority.** "Authority" means the Minnesota Public Facilities Authority.

Subp. 7. **Average dry weather flow.** "Average dry weather flow" means the daily average flow when the groundwater is at or near normal and a runoff condition is not occurring.

Subp. 8. **Average wet weather flow.** "Average wet weather flow" means the daily average flow for the wettest 30 consecutive days for mechanical facilities or for the wettest 180 consecutive days for controlled discharge pond systems. The 180 consecutive days for pond systems must be based on either the storage period from approximately November 15 through May 15 or the storage period from approximately May 15 through November 15.

Subp. 9. **Budget period.** "Budget period" means the period of time approved by the commissioner during which a municipality may incur reimbursable costs.

Subp. 10. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Pollution Control Agency.

Subp. 11. **Debt charge.** "Debt charge" means the charge levied on users of a wastewater treatment facility for the user's share of the local capital costs of construction of the facility.

Subp. 11a. **Discharge monitoring report.** "Discharge monitoring report" means the monthly report that contains information about the wastewater entering, treated, and discharged from a wastewater treatment system and that is submitted by a municipality to the commissioner as required by an NPDES or SDS permit.

Subp. 11b. **Evaluator/designer.** "Evaluator/designer" means a person approved by the commissioner, in accordance with part 7077.0720, who investigates soils and site characteristics to determine suitability, limitations, soil type, and sizing requirements for individual sewage treatment systems and design treatment systems that conform to chapter 7080.

Subp. 12. **Excessive infiltration.** "Excessive infiltration" means the quantity of flow which is more than 120 gallons per capita per day (domestic base flow and infiltration).

Subp. 13. **Excessive inflow.** "Excessive inflow" means the quantity of flow during storm events that results in chronic operational problems related to hydraulic overloading of the treatment system or that results in a total flow of more than 275 gallons per capita per day (domestic and industrial base flow plus infiltration plus inflow). Chronic operational problems may include surcharging, backups, bypasses, and overflows.

Subp. 13a. **Expanded discharge.** "Expanded discharge" to an outstanding resource value water means a discharge that changes in volume, quality, location, or any other manner after the effective date the outstanding resource value water was designated as described in parts 7050.0460 and 7050.0470, such that an increased loading of one or more pollutants results. In determining whether an increased loading of one or more pollutants would result from the proposed change in the discharge, the agency shall compare the loading that would result from the proposed discharge with the loading allowed by the agency as of the effective date of outstanding resource value water designation.

For all other waters of the state, expanded discharge means a discharge that changes in volume, quality, location, or any other manner after January 1, 1988, such that an increased loading of one or more pollutants would result from the proposed change in discharge. The agency shall compare the loadings that would result from the proposed discharge with the loading allowed by the agency on January 1, 1988.

Subp. 14. **Facilities plan.** "Facilities plan" means the plans, studies, and reports necessary to determine wastewater treatment needs of a project service area, to systematically evaluate wastewater treatment alternatives that shall result in compliance with enforceable water quality permit conditions, and to identify the cost-effective implementable alternative. All structures with wastewater flows within the project service area must be evaluated for needs.

Subp. 14a. **Failed systems.** "Failed systems" means systems using cesspools, dry wells, leaching pits or seepage pits, or systems with less than three feet of unsaturated soil beneath the system bottom.

Subp. 15. **Fiscal year.** "Fiscal year" means the state fiscal year which begins July 1 and ends the following June 30.

Subp. 16. [Repealed, 17 SR 3097]

Subp. 16a. **Individual sewage treatment system.** "Individual sewage treatment system" means a wastewater treatment system, or part of the system, serving one or more structures with wastewater flows, which uses soil treatment and disposal.

Subp. 17. **Infiltration.** "Infiltration" means water other than wastewater that enters a sewer system (including sewer service connections and foundation drains) from the ground through defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from, inflow.

Subp. 18. **Inflow.** "Inflow" means water other than wastewater that enters a sewer system (including sewer service connections) from sources such as, but not limited to, roof leaders, cellar drains, yard drains, area drains, drains from springs and swampy areas, manhole covers, cross connections between storm sewers and sanitary sewers, catch basins, cooling towers, storm waters, surface runoff, street wash waters, or drainage. Inflow does not include, and is distinguished from, infiltration.

Subp. 18a. **Initiation of operation.** "Initiation of operation" means the date on which all components of the wastewater treatment system and all individual sewage treatment sys-

tems within a project service area are complete and functioning and the project begins operating for the purposes for which it was planned, designed, and built.

Subp. 19. **Intended use plan.** “Intended use plan” means the document prepared annually by the agency according to the requirements in Title VI of the act and submitted to the United States Environmental Protection Agency. The plan shall identify the intended uses of the amounts available to the water pollution control revolving fund, including a list of wastewater treatment projects and other eligible activities proposed to be funded during the fiscal year. Projects will be listed on the intended use plan in the order of their priority ranking on the project priority list.

Subp. 19a. **Maintenance plan.** “Maintenance plan” means a plan developed and administered by a municipality that demonstrates how the maintenance requirements of chapter 7080 shall be implemented and enforced.

Subp. 19b. **Maximum design flow.** “Maximum design flow” means the design flow used to size septic tanks. For structures with wastewater flows used as a residence, it is determined by the number of bedrooms as defined in chapter 7080. For other structures with wastewater flows, it is determined by the best available data provided by the agency.

Subp. 20. [Repealed, 17 SR 3097]

Subp. 21. [Repealed, 17 SR 3097]

Subp. 21a. **Maximum impact zone.** “Maximum impact zone” means a standardized area with the highest density of unsewered structures that allows the impact of wastewater discharged by individual sewage treatment systems to be compared between project service areas. The maximum impact zone is the smallest circular area in a project service area which contains a certain number of unsewered structures that discharge wastewater.

If the project service area contains 50 or more unsewered structures that discharge wastewater, the maximum impact zone shall include at least 25 percent of the total structures. If there are between 13 and 49 of these structures in a project service area, the maximum impact zone shall include at least 13 of these structures. If there are 12 or fewer of these structures in a project service area, the maximum impact zone shall include all of these structures.

Subp. 22. [Repealed, 17 SR 3097]

Subp. 22a. **Minimum secondary treatment standards.** “Minimum secondary treatment standards” means the standards listed under part 7050.0211, subpart 1.

Subp. 23. [Repealed, 17 SR 3097]

Subp. 24. **Municipality.** “Municipality” means any county, city, town, the Metropolitan Waste Control Commission established in Minnesota Statutes, chapter 473, the Metropolitan Council when acting under that chapter, an Indian tribe or an authorized Indian tribal organization, or any other governmental subdivision of the state responsible by law for the prevention, control, and abatement of water pollution in any area of the state.

Subp. 25. **Need.** “Need” means a new or upgraded wastewater treatment system is necessary for a municipality to comply with chapter 7040, 7050, 7060, or 7080.

Subp. 25a. **New discharge.** “New discharge” to an outstanding resource value water means a discharge that was not in existence on the effective date the outstanding resource value water was designated as described in parts 7050.0460 and 7050.0470. For all other waters of the state, new discharge means a discharge that was not in existence prior to January 1, 1988.

Subp. 26. **NPDES permit.** “NPDES permit” means a National Pollutant Discharge Elimination System permit issued by the agency that authorizes under certain conditions the discharge of pollutants to surface waters of the state. Combined NPDES/SDS permits issued by the agency will be considered NPDES permits under this chapter.

Subp. 27. **Operation and maintenance manual.** “Operation and maintenance manual” means a document developed to give treatment system personnel the proper understanding, techniques, and references necessary to properly operate and maintain the treatment system.

Subp. 28. **Outstanding resource value water.** “Outstanding resource value water” means those waters defined in part 7050.0180, subpart 2, item A.

Subp. 29. **Peak hourly wet weather flow.** "Peak hourly wet weather flow" is the peak flow during the peak hour of the day at a time when the groundwater is high and a five-year one hour storm event is occurring.

Subp. 30. **Peak instantaneous wet weather flow.** "Peak instantaneous wet weather flow" means the peak instantaneous flow during the day at a time when the groundwater is high and a 25-year one hour storm event is occurring.

Subp. 31. **Performance certification.** "Performance certification" means a certification made by a municipality one year after initiation of operation that states its newly constructed wastewater treatment system is meeting performance standards, as specified under parts 7077.0255, 7077.0325, and 7077.0440.

Subp. 32. **Plans and specifications.** "Plans and specifications" means documents, including completed drawings and specifications, that describe the project in full and detail the complete requirements for materials, dimensions, and construction technique. The documents that comprise the plans and specifications must conform with generally accepted engineering practices and applicable state statutes, rules, and requirements.

Subp. 32a. **Pollutant.** "Pollutant" has the meaning given in Minnesota Statutes, section 115.01, subdivision 12.

Subp. 33. [Repealed, 17 SR 3097]

Subp. 33a. **Project priority list.** "Project priority list" means the priority list prepared by the commissioner under parts 7077.0115 to 7077.0145.

Subp. 33b. **Project service area.** "Project service area" means that area of the state served by the proposed project and identified by clearly defined boundaries in the facilities plan.

Subp. 34. [Repealed, 17 SR 3097]

Subp. 35. [Repealed, 17 SR 3097]

Subp. 35a. **Residential growth.** "Residential growth" means a population increase attributed to persons who reside within a municipality.

Subp. 35b. **SDS permit.** "SDS permit" means a State Disposal System permit issued by the agency that authorizes under certain conditions the subsurface disposal or on-land disposal of pollutants and the operation of a disposal system.

Subp. 36. [Repealed, 17 SR 3097]

Subp. 36a. **Seepage.** "Seepage" means the unintended and unanticipated discharge of partially treated sewage to the soil surface.

Subp. 37. **Sewer rate ordinance or SRO.** "Sewer rate ordinance" or "SRO" means a municipal ordinance that determines the method by which a municipality will charge its users for wastewater treatment services, including the local capital cost of the treatment works.

Subp. 38. **Sewer service charge.** "Sewer service charge" means the aggregate of all charges, including charges for operation, maintenance, replacement, debt service, and other sewer related charges that are billed periodically to users of the city's wastewater treatment system.

Subp. 39. **Sewer service charge system or SSCS.** "Sewer service charge system" or "SSCS" means a document developed by the municipality that determines the user charge and debt charge that each user will pay for wastewater treatment services.

Subp. 40. [Repealed, 17 SR 3097]

Subp. 41. **Sewer use ordinance or SUO.** "Sewer use ordinance" or "SUO" means a municipal ordinance enacted to control the type and quantities of discharges to the wastewater treatment system, and the type and method of connections to the system.

Subp. 41a. **Significant industrial user.** "Significant industrial user" means any industrial user of a wastewater treatment system that discharges five percent or more of the wastewater treatment system's design loading for a pollutant to the wastewater treatment system, or discharges 25,000 gallons per day or more of process wastewater to the wastewater treatment system, or is determined by the commissioner to have the potential to adversely impact the wastewater treatment system or the quality of discharged effluent from the wastewater treatment system.

Subp. 42. [Repealed, 17 SR 3097]

Subp. 43. **Treatment agreement.** "Treatment agreement" means an enforceable agreement between a municipality and a significant industrial user that meets the individual control mechanism requirements of Code of Federal Regulations, title 40, part 403.8(f).

Subp. 44. **Unanticipated site condition.** "Unanticipated site condition" means any subsurface, latent or unknown physical condition at the construction site, which differs materially from those ordinarily encountered and generally recognized as inherent in work of the type provided for in the construction contract that could not have been reasonably identified during the planning or design of the project.

Subp. 45. **User charge.** "User charge" means a charge levied on users of a wastewater treatment system for the user's share of the cost of equipment replacement and operation and maintenance of the wastewater treatment system.

Subp. 46. [Repealed, 17 SR 3097]

Subp. 47. **Wastewater.** "Wastewater" means sewage, industrial waste, and other waste collected for treatment in a wastewater treatment system.

Subp. 48. **Wastewater treatment system.** "Wastewater treatment system" means a system or systems designed to treat, stabilize, or dispose of wastewater, including the sewer system and disposal system.

Subp. 49. **Water use classification.** "Water use classification" means the classifications listed under part 7050.0200.

Subp. 50. **Water with significant water quality violations.** "Water with significant water quality violations" means a water designated as a "Water with Significant Water Quality Violations" in the appendices of the most recent biennial Minnesota Water Quality report to Congress required by Section 305(b) of the act.

**Statutory Authority:** *MS s 116.07; 116.182*

**History:** *15 SR 288; 17 SR 3097*

**7077.0110** [Repealed, 17 SR 3097]

## PROJECT PRIORITY PROCESS FINANCIAL ASSISTANCE PROGRAM

### **7077.0111 PURPOSE.**

The financial assistance program consists of:

A. the wastewater infrastructure fund, according to Minnesota Statutes, section 446A.071;

B. the state revolving fund, according to Minnesota Statutes, section 446A.07;

C. the state independent grants program for grants awarded on or after July 1, 1990, according to Minnesota Statutes, section 116.18, subdivision 3a.

The program is jointly administered by the agency and the authority. Parts 7077.0111 to 7077.0292 provide for the agency's responsibilities for the administration of the program.

**Statutory Authority:** *MS s 116.07; 116.182; 446A.07*

**History:** *13 SR 1690; 15 SR 288; 17 SR 3097*

### **7077.0115 PROJECT PRIORITY LIST.**

Subpart 1. **Requirement.** The commissioner shall develop and maintain a project priority list of projects for municipalities that have a need for a new or upgraded wastewater treatment system.

Subp. 2. **Points and listing order.** A project on the project priority list must be assigned points under the criteria established in this chapter. The projects must be listed on the project priority list in descending order according to the number of total points assigned to each.

Subp. 3. **Request for placement on list.** A municipality may submit a written request to the commissioner for placement of a project on the project priority list. The request must include a description of the need for the new or upgraded wastewater treatment system. If known, the request shall also include a description of the proposed project and its costs. The municipality must submit any information that is necessary for the project to receive accurate

review under subpart 4. Unless a municipality requests that its project be placed on the list with total points equal to one, information must be submitted according to items A to C.

A. For municipalities that have wastewater treatment systems with an NPDES permit, the information submittal should include a request for the extra points under part 7077.0175, and the supporting documentation, if applicable to the project. The extra point information shall be accepted no later than the date the facilities plans are submitted to the commissioner.

B. For municipalities that have wastewater treatment systems with an SDS permit, the information submittal should include a request for the extra points under part 7077.0185, and the supporting documentation, if applicable to the project. The extra point information shall be accepted no later than the date the facilities plans are submitted to the commissioner.

C. For municipalities that have wastewater treatment systems without an NPDES or SDS permit, the information submittal must include:

(1) the total number of structures with wastewater flows in the project service area; and

(2) a map of the project service area which has an identifiable scale, identifies all the structures with wastewater flows, and has the maximum impact zone clearly encircled.

The submittal should also include a request for the extra points under part 7077.0195, and the supporting documentation, if applicable to the project. The extra point information shall be accepted no later than the date the facilities plan is submitted to the commissioner.

**Subp. 4. Review.** The commissioner shall review each request and take the action specified in item A, B, or C.

A. Projects in areas currently served by a wastewater collection system shall be added to the project priority list if the commissioner finds that a need currently exists or shall exist within the next five years.

B. Projects in areas not currently served by a wastewater collection system shall be added to the project priority list only if the commissioner finds that a need currently exists.

C. Projects that do not meet the criteria in item A or B shall not be added to the list and the commissioner shall notify the municipality of the reasons for the determination.

**Subp. 5. Recalculation of total points.** Total points shall be recalculated when new information is available and the authority determines that the project is eligible for funding according to Minnesota Statutes, section 446A.071.

**Subp. 6. Removal from project priority list.** If a project has been on the project priority list for five years without being certified to the authority according to part 7077.0281, the project shall be removed from the list. The commissioner shall inform the municipality in writing that its project has been removed. The municipality may submit a request, according to subpart 3, to be placed back on the list.

**Statutory Authority:** *MS s 116.07; 116.182*

**History:** *15 SR 288; 17 SR 3097*

**7077.0120** [Repealed, 17 SR 3097]

**7077.0125** [Repealed, 17 SR 3097]

**7077.0130** [Repealed, 17 SR 3097]

**7077.0135** [Repealed, 17 SR 3097]

**7077.0140** [Repealed, 17 SR 3097]

**7077.0145** [Repealed, 17 SR 3097]

**7077.0150** [Renumbered 7077.0272]

**7077.0155** [Renumbered 7077.0274]

**7077.0160** [Repealed, 17 SR 3097]

**7077.0165 PRIORITY POINTS FOR TYPE OF PROJECT.**

The type of wastewater treatment system currently serving the project service area shall determine how priority points are assigned to the project. If any portion of the project service

area is covered by an NPDES permit, the project shall be considered an NPDES project and shall receive points under parts 7077.0167 to 7077.0176. If no portion of the project service area is covered by an NPDES permit but some portion of it is covered by an SDS permit, the project shall be considered an SDS project and shall receive points under parts 7077.0177 to 7077.0186. If no portion of the project service area is covered by an NPDES or SDS permit, the project shall receive points under parts 7077.0187 to 7077.0196.

**Statutory Authority:** *MS s 116.182*

**History:** *17 SR 3097*

#### **7077.0167 TOTAL POINTS FOR WASTEWATER TREATMENT SYSTEMS WITH AN NPDES PERMIT.**

A project in a municipality that has a wastewater treatment system with an NPDES permit shall be evaluated under four categories: impact factor, under part 7077.0169; use factor, under part 7077.0171; condition factor, under part 7077.0173; and extra points, under part 7077.0175. Points will be assigned separately for each category. The total points shall equal the product of the impact factor, the use factor, and the condition factor, added to the extra points. The total points may be reduced by a penalty factor, calculated under part 7077.0176. The total points, after being adjusted by the penalty factor, shall be used to list the project on the project priority list under part 7077.0115.

**Statutory Authority:** *MS s 116.182*

**History:** *17 SR 3097*

#### **7077.0169 IMPACT FACTOR FOR WASTEWATER TREATMENT SYSTEMS WITH AN NPDES PERMIT.**

A project shall be assigned an impact factor which represents the impact the wastewater treatment system is having on the quality of the receiving water. The impact factor will be calculated according to items A to C.

A. The impact factor for a receiving water that is a lake or wetland will be one.

B. The impact factor for a collection system project will be one.

C. For a system that does not meet the conditions under item A or B, the impact factor shall be based on the dilution ratio. The dilution ratio is the number obtained by dividing the seven-day once-in-ten-year low flow of the receiving water, as defined under part 7050.0210, subpart 7, by the average low flow from the municipal wastewater treatment system. The average low flow from the treatment system shall be calculated by averaging the influent flow reported on the discharge monitoring reports for the three consecutive months with the lowest average influent flow within the most recent three climatic years of flow data. A climatic year is the period from April 1 of a year until March 31 of the following year. The impact factor shall be assigned as follows:

Dilution Ratio	Impact Factor
1 or less	5
between 1 and 10	$(49 - (4 \times \text{Dilution Ratio})) / 9$
10 or more	1

**Statutory Authority:** *MS s 116.182*

**History:** *17 SR 3097*

#### **7077.0171 USE FACTOR FOR WASTEWATER TREATMENT SYSTEMS WITH AN NPDES PERMIT.**

**Subpart 1. Determining use factor.** A project shall be assigned a use factor which represents the use classification of the receiving water at the point of wastewater discharge. The use factor is the sum of points from subparts 2 to 7 that apply to the receiving water. The use factor is first calculated based on the existing wastewater treatment system and revised, if applicable, based on the approved facilities plan.



# MINNESOTA RULES 1995

## 7077.0171 WASTEWATER TREATMENT ASSISTANCE

1170

Subp. 2. **Water use classification.** Categories of water use under the state water quality standards, chapter 7050, include: class 1, domestic consumption; class 2, fisheries and recreation; and class 7, limited resource value. The use classifications are assigned points based on location of the wastewater discharge as follows:

Water Use Classification	Points
2A	100
1	85
2Bd	85
2B	75
2C	50
7	10

Use classifications for waters of the state are listed under parts 7050.0400 to 7050.0470. If the receiving water at the point of discharge has more than one of the designated water uses listed in this subpart, the classification with the highest point value shall be used.

Subp. 3. **Drinking water.** When a water intake supplying a potable water system is located 25 miles or less downstream of the discharge point, 40 points shall be assigned.

Subp. 4. **Outstanding resource value waters.** When the receiving water is designated an outstanding resource value water at the point of discharge, 40 points shall be assigned.

Subp. 5. **Canoe and boating route.** When the receiving water is designated as a canoe and boating route under Minnesota Statutes, section 85.32, and is not designated as an outstanding resource value water, five points shall be assigned.

Subp. 6. **Effluent limits.** The receiving water receives treated wastewater that is regulated by pollutant effluent limits established in an NPDES permit. Permit effluent limits are assigned points according to items A to C.

A. When effluent limits are assigned for one or more of the toxic pollutants listed under part 7050.0220, excluding residual chlorine, or based on criteria derived from part 7050.0218, 25 points shall be assigned.

B. When effluent limits are assigned for phosphorus, 17 points shall be assigned.

C. When effluent limits that are more stringent than the minimum secondary treatment standards under part 7050.0211, subpart 1, are needed for five-day carbonaceous biochemical oxygen demand (CBOD5), 17 points will be assigned. These points will not be assigned for effluent limits that are established according to part 7050.0214, subparts 1 and 2, for dischargers to class 7 waters.

Subp. 7. **Habitat.** When the treatment system discharges to a water that supports one or more of the endangered, threatened, or special concern species identified under parts 6134.0200 to 6134.0400 or natural communities whose criteria are listed in Minnesota Statutes, section 84.944, 50 points shall be assigned.

**Statutory Authority:** *MS s 116.182*

**History:** *17 SR 3097*

## 7077.0173 CONDITION FACTOR FOR WASTEWATER TREATMENT SYSTEMS WITH AN NPDES PERMIT.

A project shall be assigned a condition factor of 1.25 if the existing municipality discharges into a body of water identified as a water with significant water quality violations. Other projects shall be assigned a condition factor of 1.

**Statutory Authority:** *MS s 116.182*

**History:** *17 SR 3097*

## 7077.0175 EXTRA POINTS FOR WASTEWATER TREATMENT SYSTEMS WITH AN NPDES PERMIT.

Subpart 1. **Determining extra points.** A project shall be assigned extra points under subparts 2 to 7 if applicable. To qualify for the points under subparts 3 and 5 to 7, the municipality must make a written request for the points and submit supporting documentation to the commissioner according to part 7077.0115, subpart 3, item A.

Subp. 2. **Eliminate discharge.** When an existing discharge point to a lake, a wetland, a stream with a water use classification of 2A, or an outstanding resource value water will be eliminated by the project, 200 points shall be assigned.

Subp. 3. **Karst.** When an existing pond system is in an area with karstic geological characteristics and will be replaced or rehabilitated by the project, 200 points shall be assigned. Karstic geological characteristics are: sinkholes; dry valleys in areas with humid climates; springs draining carbonate, sulfate, or halide rocks; caves; sinking streams; dissolutionally enlarged joints or bedding planes; grikes; or karren.

Subp. 4. **Excessive leakage.** When a project is designed to meet a permit requirement that leakage from a pond is corrected, 50 points shall be assigned.

Subp. 5. **Multimunicipal cooperation.** When a sanitary district or other multimunicipal entity will be formed to undertake the project, 50 points shall be assigned.

Subp. 6. **Diagnostic study.** When a water quality problem identified as a priority in a diagnostic study and implementation plan will be addressed by the project, 50 points shall be assigned. The diagnostic study and implementation plan must meet the requirements under parts 7076.0240 to 7076.0250 and must be approved by the commissioner.

Subp. 7. **Local water plan.** When a water quality problem identified as a priority in a local water plan will be addressed by the project, 25 points shall be assigned. The local water plan must be developed by a county according to Minnesota Statutes, section 103B.201 or 103B.301, must outline comprehensive steps for implementing solutions that include the project, and must be approved by the Minnesota Board of Water and Soil Resources.

**Statutory Authority:** *MS s 116.182*

**History:** *17 SR 3097*

#### **7077.0176 PENALTY FACTOR FOR WASTEWATER TREATMENT SYSTEMS WITH AN NPDES PERMIT.**

The total points for a project, calculated according to part 7077.0167, shall be reduced by 30 percent if the project:

A. includes a new or expanded discharge to an outstanding resource value water; or

B. includes a new or expanded discharge to a stream with a water use classification of 2A, a lake, or a wetland, and that new or expanded discharge consists of more than 200,000 gallons per day based on the design average wet weather flow for the wettest 30-day period.

**Statutory Authority:** *MS s 116.182*

**History:** *17 SR 3097*

#### **7077.0177 TOTAL POINTS FOR WASTEWATER TREATMENT SYSTEMS WITH AN SDS PERMIT.**

A project in a municipality that has a wastewater treatment system with an SDS permit shall be evaluated under three categories: impact factor, under part 7077.0179; use factor, under part 7077.0181; and extra points, under part 7077.0185. Points shall be assigned separately for each category. The total points shall equal the product of the impact factor and the use factor, added to the extra points. The total points, after being adjusted by the penalty factor, shall be used to list the project on the project priority list under part 7077.0115.

**Statutory Authority:** *MS s 116.182*

**History:** *17 SR 3097*

#### **7077.0179 IMPACT FACTOR FOR WASTEWATER TREATMENT SYSTEMS WITH AN SDS PERMIT.**

A project shall be assigned an impact factor corresponding to the impact which the existing wastewater treatment system has on the quality of the groundwater. The impact factor shall be based on the average over the last 12 months of the influent flow into the wastewater treatment system. The influent flow shall be the "average reported values" for influent flow from the wastewater treatment system's discharge monitoring reports. The impact factor shall be assigned as follows:

12-month average of flow measured in million gallons per day	Impact factor
0.01 or less	1
Between 0.01 and 0.25	$(5 + (100 \times 12\text{-month average of flow})) / 6$
0.25 or more	5

**Statutory Authority:** *MS s 116.182*

**History:** *17 SR 3097*

**7077.0181 USE FACTOR FOR WASTEWATER TREATMENT SYSTEMS WITH AN SDS PERMIT.**

A project in a municipality that has a wastewater treatment system with an SDS permit shall be assigned a use factor of 85.

**Statutory Authority:** *MS s 116.182*

**History:** *17 SR 3097*

**7077.0185 EXTRA POINTS FOR WASTEWATER TREATMENT SYSTEMS WITH AN SDS PERMIT.**

Subpart 1. **Determining extra points.** A project shall be assigned extra points under subparts 2 to 6 and part 7077.0175, subparts 3 to 7. To qualify for the points, the municipality must make a written request for the points and submit supporting documentation to the commissioner in accordance with part 7077.0115, subpart 3, item B.

Subp. 2. **Component failure.** When the failure of one or more components of a wastewater treatment system is causing the system to lose performance or capacity, points equal to two times the percentage of the total project cost which is devoted to correcting the failed component shall be assigned.

Subp. 3. **Seepage problems.** When seepage or partially treated wastewater or sewage backups caused by problems with the wastewater treatment system will be corrected by the project, 50 points shall be assigned. When continuous seepage will be corrected by the project, an additional 50 points shall be assigned.

Subp. 4. **Permit exceedances.** When discharge monitoring reports show that permit conditions for the wastewater treatment system have been exceeded two or more months in the last two years, and the project is designed to correct the problem, points shall be assigned according to items A and B.

A. If the permit condition for nitrate as nitrogen has been exceeded, 25 points shall be assigned.

B. If permit conditions have been exceeded for one or more permitted effluent constituents other than nitrate as nitrogen, 25 points shall be assigned.

Subp. 5. **Nitrate removal.** When technology to remove nitrate from the wastewater will be included in the project and the project will still engage in the subsurface or on-land disposal of the wastewater, 150 points shall be assigned.

Subp. 6. **Geologically sensitive area.** When 25 percent of the project service area is identified in the county soil survey as having parent material classified as glacial outwash, glacial lake sand, glacial lake gravel, terrace sand and gravel deposits, limestone, or dolomite, 50 points shall be assigned. If county soil survey information is not available, the points shall be assigned if the Minnesota soil atlas identifies at least 25 percent of the project service area as being poorly drained with sandy soil five feet or more below the ground surface.

**Statutory Authority:** *MS s 116.182*

**History:** *17 SR 3097*

# MINNESOTA RULES 1995

1173

WASTEWATER TREATMENT ASSISTANCE 7077.0195

## **7077.0186 PENALTY FACTOR FOR WASTEWATER TREATMENT SYSTEMS WITH AN SDS PERMIT.**

The total points for a project, calculated according to part 7077.0177, shall be reduced by 30 percent if the project:

A. includes a new or expanded discharge to an outstanding resource value water; or

B. includes a new or expanded discharge to a stream with a water use classification of 2A, a lake, or a wetland, and that new or expanded discharge consists of more than 200,000 gallons per day based on the design average wet weather flow for the wettest 30-day period.

**Statutory Authority:** *MS s 116.182*

**History:** *17 SR 3097*

## **7077.0187 TOTAL POINTS FOR WASTEWATER TREATMENT SYSTEMS WITHOUT AN NPDES OR SDS PERMIT.**

A project in a municipality that has a wastewater treatment system without an NPDES or SDS permit shall be evaluated under three categories: impact factor, under part 7077.0189; use factor, under part 7077.0191; and extra points, under part 7077.0195. Points shall be assigned separately for each category. The total points shall equal the product of the impact factor and the use factor, added to the extra points. The total points, after being adjusted by the penalty factor, shall be used to list the project on the project priority list under part 7077.0115.

**Statutory Authority:** *MS s 116.182*

**History:** *17 SR 3097*

## **7077.0189 IMPACT FACTOR FOR WASTEWATER TREATMENT SYSTEMS WITHOUT AN NPDES OR SDS PERMIT.**

The impact factor shall be based on the density ratio for the project service area. The density ratio is the number of structures with wastewater flows in the maximum impact zone of the project service area, divided by the total acreage of the maximum impact zone. A project shall be assigned an impact factor as follows:

Density ratio	Impact factor
0.5 or less	1
Between 0.5 and 4	$(3 + (8 \times \text{Density Ratio})) / 7$
4 or more	5

**Statutory Authority:** *MS s 116.182*

**History:** *17 SR 3097*

## **7077.0191 USE FACTOR FOR WASTEWATER TREATMENT SYSTEMS WITHOUT AN NPDES OR SDS PERMIT.**

A project in a municipality that has a wastewater treatment system without an NPDES or SDS permit shall be assigned a use factor of 85.

**Statutory Authority:** *MS s 116.182*

**History:** *17 SR 3097*

## **7077.0195 EXTRA POINTS FOR WASTEWATER TREATMENT SYSTEMS WITHOUT AN NPDES OR SDS PERMIT.**

Subpart 1. **Determining extra points.** A project shall be assigned extra points, as appropriate:

- A. under subparts 2 to 8;
- B. under part 7077.0175, subparts 5 to 7; and
- C. under part 7077.0185, subparts 5 and 6.

To qualify for the points, the municipality must make a written request for the points and submit supporting documentation to the commissioner in accordance with part 7077.0115, subpart 3.

**Subp. 2. Eliminate discharge.** When the project will eliminate a surface discharge, points shall be assigned equal to three times the percentage of structures with wastewater flows in the project service area which are identified to have surface discharges. Surface discharges are wastewater discharges to the soil surface or to a surface water.

**Subp. 3. Well code setback infringements.** When infringements of code setbacks to drinking wells will be eliminated by the project, points equal to 1.5 times the percentage of structures with wastewater flows in the project service area which currently are identified to have infringements of well code setbacks shall be assigned.

**Subp. 4. Failed systems.** When failed systems will be corrected by the project, points shall be assigned equal to 1.5 times the percentage of structures with wastewater flows in the project service area which are identified as failed systems.

**Subp. 5. Seepage problems.** When seepage of partially treated wastewater or sewage backup problems will be corrected by the project, points equal to 1.5 times the percentage of structures with wastewater flows in the project service area which are identified as having seepage or backup problems in the last two years shall be assigned.

**Subp. 6. Nondomestic wastewater.** When the discharges of nondomestic wastewater will be eliminated by the project, points shall be assigned equal to 150 times the number of the discharges eliminated in the project service area, divided by the total number of structures with wastewater flows in the project service area.

**Subp. 7. Surface water code setback infringements.** When infringements of code setbacks to surface waters will be corrected by the project, points equal to the percentage of structures with wastewater flows in the project service area which currently are identified to have infringements of code setbacks to surface waters which do not also have infringements of code setbacks to drinking wells shall be assigned. Infringements of code setbacks to drinking wells are assigned points under subpart 3.

**Subp. 8. Sewer connection.** When the project includes the construction of a sewer that will connect the project service area to an existing wastewater treatment system, 150 points shall be assigned.

**Statutory Authority:** *MS s 116.182*

**History:** *17 SR 3097*

**7077.0196 PENALTY FACTOR FOR WASTEWATER TREATMENT SYSTEMS WITHOUT AN NPDES OR SDS PERMIT.**

The total points for a project, calculated according to part 7077.0187, shall be reduced by 30 percent if the project:

A. includes a new or expanded discharge to an outstanding resource value water;  
or

B. includes a new or expanded discharge to a stream with a water use classification of 2A, a lake, or a wetland, and that new or expanded discharge consists of more than 200,000 gallons per day based on the design average wet weather flow for the wettest 30-day period.

**Statutory Authority:** *MS s 116.182*

**History:** *17 SR 3097*

**7077.0197 RESOLUTION OF EQUAL POINT RATINGS.**

When two or more projects have the same point total on the project priority list, the project having the use factor with the higher numerical value shall be ranked higher. If two or more projects are still tied, the project with the larger impact factor shall be ranked higher. If two or more projects are still tied, the municipality with the largest population, as recorded in the most recent United States census, shall receive the highest priority.

**Statutory Authority:** *MS s 116.182*

**History:** *17 SR 3097*

**7077.0200 [Repealed, 17 SR 3097]**

**7077.0205** [Repealed, 17 SR 3097]

**7077.0210** [Repealed, 17 SR 3097]

**7077.0215** [Repealed, 17 SR 3097]

**7077.0220** [Repealed, 17 SR 3097]

**7077.0225** [Repealed, 17 SR 3097]

**7077.0230** [Repealed, 17 SR 3097]

**7077.0235** [Repealed, 17 SR 3097]

**7077.0240** [Repealed, 17 SR 3097]

**7077.0245** [Repealed, 17 SR 3097]

**7077.0250** [Repealed, 17 SR 3097]

**7077.0255** [Repealed, 17 SR 3097]

**7077.0260** [Repealed, 17 SR 3097]

**7077.0265** [Repealed, 17 SR 3097]

**7077.0272 FACILITIES PLAN.**

Subpart 1. **In general.** Facilities plans for wastewater treatment systems must be prepared and signed by a professional engineer registered in Minnesota. Facilities plans for individual sewage treatment systems designed to treat 5,000 gallons or less of wastewater per day must be prepared and signed by either a professional engineer registered in Minnesota or an evaluator/designer. Facilities plans must be submitted to the commissioner for review and approval according to part 7077.0278, subpart 3, item C.

Subp. 2. **Facilities plan contents.** A facilities plan must address items A to E in the amount of detail that is appropriate to describe a project accurately.

A. A complete description and evaluation of the existing wastewater treatment system and problems that need correction. This evaluation must consider the age, condition, design capacity, and treatment capabilities of each treatment unit, the system's ability to meet current or proposed permit requirements, and the location, frequency, and quantity of any bypasses. For existing individual sewage treatment systems, a survey must also be prepared which identifies whether or not each individual sewage treatment system in the project service area conforms to the requirements under chapter 7080.

B. Data describing existing residential wastewater flows and loadings, and existing nonresidential wastewater flows and loadings. The existing wastewater flow and loading data must be reported on a form provided by the agency.

C. Data describing future residential and nonresidential wastewater flows and loadings within the next 20-year period based on projected residential growth, projected nonresidential growth, and signed letters of intent from significant industrial users. The future wastewater flow and loading data must be reported on a form provided by the agency.

D. A discussion of all treatment alternatives that were considered during the facility selection process and are capable of meeting the applicable effluent, water quality, and public health requirements for 20 years. The discussion of the considered alternatives must include:

(1) a cost-effective comparison of the alternatives considered. The cost comparison must include a detailed breakdown of the present worth of all capital costs, annual operation and maintenance costs, equipment replacement costs, and salvage values. If excessive levels of infiltration or inflow exist, the cost comparison of treatment alternatives must include a comparison of the cost of eliminating excessive infiltration or inflow with the cost of transportation and treatment of the infiltration or inflow;

(2) a site assessment of the existing soil and groundwater conditions conducted and signed by a professional engineer. For individual sewage treatment systems designed to treat less than 5,000 gallons per day of wastewater, a site assessment must be done by either a professional engineer or a certified evaluator/designer;

(3) an evaluation of the impact of the alternatives on all existing wastewater treatment systems, including sewers and lift stations;

(4) a comparison of the potential environmental impacts.

E. A description of the selected treatment alternative and the complete wastewater treatment system of which it is a part, including:

(1) the specific design parameters of all individual treatment units and the complete treatment system;

(2) estimated construction, annual operation and maintenance, and equipment replacement costs;

(3) estimated annual sewer service charges;

(4) a determination of whether pretreatment of any industrial wastes is needed in order to avoid disruption of the proper operation of the proposed system;

(5) an evaluation of how and where sludge or septage resulting from the treatment process will be disposed;

(6) an analysis of the 25- and 100-year flood elevations in relation to the proposed project site or sites, showing that the project will be operable during a 25-year flood and protected during a 100-year flood; and

(7) an analysis of how interim treatment will be accomplished during construction to meet permit requirements.

Subp. 2a. **Facilities plans supplement.** The following items must be submitted to the commissioner with the facilities plans:

A. for individual sewage treatment systems that serve more than one structure with wastewater flows, an assurance from the municipality stating that all property owners who will be served by the proposed system agree to be part of the system, to participate in the construction project, and to finance future operation, maintenance, and replacement of the system;

B. a complete list of addresses used for public notice purposes and listed on a form provided by the agency;

C. a summary of the information presented and public comments received at a public hearing, required under subpart 3, and the action taken to address those comments;

D. a formal resolution of the municipality's governing body adopting the facilities plan;

E. a list of ordinances or intermunicipal agreements necessary for the successful implementation and administration of the project;

F. a signed treatment agreement with each significant industrial user; and

G. a completed environmental information sheet.

Subp. 3. **Public hearing.** Before adopting the facilities plan, the municipality must hold at least one public hearing to discuss the proposed project. The facilities plan must be made available for review by interested persons before the date of the hearing. At the public hearing, information must be presented on the various treatment alternatives considered, the reasons for choosing the selected alternative, the location of the proposed project site, and the estimated sewer service charges.

Subp. 4. [Repealed, 17 SR 3097]

Subp. 5. **Consistency with planning requirements.** The selected treatment alternative must be consistent with plans, if any, developed under sections 205(j), water quality management planning; 208, areawide waste treatment management; 303(e), water quality standards and implementation plan; and 319, nonpoint source management programs of the act.

**Statutory Authority:** *MS s 116.07; 116.182*

**History:** *15 SR 288; 17 SR 3097*

## 7077.0274 PLANS AND SPECIFICATIONS.

Subpart 1. **In general.** A municipality must submit plans and specifications to the commissioner for review and approval according to part 7077.0280, subpart 4, item A. The plans and specifications must be consistent with the scope of the approved facilities plan under part

7077.0272. The project must be constructed according to the approved plans and specifications and change orders.

Subp. 2. **Contents.** A complete set of plans and specifications must address the following items in the amount of detail that is appropriate to describe a project accurately:

A. plans and specifications signed by:

(1) a professional engineer registered in Minnesota in the case of wastewater treatment systems; or

(2) a professional engineer or an evaluator/designer in the case of individual sewage treatment systems designed to treat 5,000 gallons or less of wastewater per day;

B. a summary of design parameters for the treatment units;

C. a summary of flow conditions for average dry weather, average wet weather, peak hourly wet weather, and peak instantaneous wet weather on a form provided by the agency and, for individual sewage treatment systems, reported as average design flow or maximum design flow;

D. a hydraulic profile of the flow through the treatment system;

E. a plan for interim treatment to meet permit requirements during construction;

F. the latest detailed cost estimate based on the plans and specifications submitted;

and

G. administrative, bidding, and contract documents according to the applicable requirements under Minnesota Statutes, including a 100 percent performance bond from the contractors.

Subp. 3. **Additional submittals.** The following items must be submitted to the commissioner with the plans and specifications:

A. a project schedule on a form provided by the agency;

B. a certification from the municipality that states that full-time resident inspection shall be provided during construction and that written inspection reports, describing the construction inspected, construction problems, and the amount of inspection time required, shall be submitted to the commissioner on a monthly basis; and

C. finalized and executed intermunicipal agreements necessary for the successful implementation and administration of the project.

**Statutory Authority:** *MS s 116.07; 116.182*

**History:** *15 SR 288; 17 SR 3097*

#### **7077.0276 ESSENTIAL PROJECT COMPONENTS.**

Subpart 1. **Essential project components.** "Essential project components," according to Minnesota Statutes, section 116.182, subdivision 1, paragraph (e), means those components of a wastewater disposal system that are necessary to convey or treat a municipality's existing wastewater flows and loadings and future wastewater flows and loadings based on the projected residential growth of the municipality for a 20-year period. The essential project components shall be used to calculate the percentage under subpart 2.

Subp. 2. **Essential project components percentage.** "Essential project components percentage" means the percentage of a project that qualifies as essential project components. Based on information contained in the approved facilities plan submitted under part 7077.0272, this percentage shall be calculated by multiplying 100 times the sum of the total existing daily carbonaceous biochemical oxygen demand (CBOD) mass loading and the residential growth daily CBOD mass loading, then dividing this product by the proposed total 20-year growth daily CBOD mass loading.

Subp. 3. **Certification to authority.** The essential project components percentage calculated under subpart 2 shall be included on the commissioner's certification to the authority prepared according to part 7077.0281, subpart 3.

**Statutory Authority:** *MS s 116.182*

**History:** *17 SR 3097*

#### **7077.0278 INTENDED USE PLAN.**

Subpart 1. **Adoption of intended use plan.** The agency shall annually adopt an intended use plan based upon the requests received under subpart 2.



Subp. 2. **Notice.** At least once a year, the commissioner shall send written notification to all municipalities that requests for placement on the intended use plan are being accepted. The notice shall include the schedule for submittal of the requirements in subpart 3 in order to be placed on the intended use plan.

Subp. 3. **Requirements.** To be eligible for placement on the intended use plan, the conditions in items A to C must be met.

A. A project must be listed on the current project priority list.

B. The municipality must submit to the commissioner a written request for placement on the intended use plan that includes:

- (1) a brief description of the project for which financial assistance is sought;
- (2) an updated project cost estimate and, if different, the requested loan amount; and
- (3) a proposed project schedule and a breakdown of estimated quarterly cash flow needs.

C. For a construction loan, a municipality must first receive the commissioner's approval of its facilities plan, as required under part 7077.0272, before it will be placed on the intended use plan. If the municipality is proposing to change the selected treatment method or any other major element of a previously approved facilities plan, the municipality must receive the commissioner's approval of a facilities plan addendum.

Subp. 4. **Intended use plan amendments.** The agency shall amend the intended use plan to add additional eligible projects as necessary.

**Statutory Authority:** *MS s 116.07; 116.182; 446A.07*

**History:** *13 SR 1690; 15 SR 288; 17 SR 3097*

### 7077.0280 CERTIFICATION SUBMITTAL REQUIREMENTS.

Subpart 1. **Requirements.** To receive project certification under part 7077.0281, a municipality must submit to the commissioner for review and approval the items under subparts 2 to 4 that are applicable to the project. These items must be submitted within 90 days from the date the municipality was notified that the project was placed on the intended use plan.

Subp. 2. **Planning projects.** Municipalities seeking certification for planning projects shall submit:

- A. a description of the scope of work and estimated costs that will lead to an approved facilities plan;
- B. a schedule for completion of the facilities plan on a form provided by the agency; and
- C. in addition, for individual sewage treatment system projects, a copy of a draft ordinance that adopts the requirements of chapter 7080, individual sewage treatment standards.

Subp. 3. **Design projects.** Municipalities seeking certification for design projects shall submit:

- A. a schedule for completion of plans and specifications; and
- B. in addition, for individual sewage treatment system projects, a copy of a draft ordinance that adopts the requirements of chapter 7080, individual sewage treatment standards.

Subp. 4. **Construction projects.** Municipalities seeking certification for construction projects shall submit:

- A. plans and specifications as required under part 7077.0274 for the commissioner's review and approval;
- B. for wastewater treatment systems that are required to have an NPDES or SDS permit, a certification that the municipality has adopted a sewer service charge system that includes, at a minimum:
  - (1) the engineering and accounting data for the wastewater flows and loadings of the users of the wastewater treatment system;
  - (2) the estimated annual costs of equipment replacement and operating and maintaining the system;

(3) the rates that shall be charged to each user for the cost of operation, maintenance, and equipment replacement; and

(4) the rates that shall be charged to each user for the cost of debt retirement for the local capital cost of the treatment system;

C. a copy of the municipality's resolution adopting the sewer service charge system;

D. a certification that the municipality has enacted a sewer use ordinance, sewer rate ordinance, or combined sewer use and sewer rate ordinance that, at a minimum:

(1) establishes a rate setting method for user charges;

(2) establishes a rate setting method for debt charges;

(3) requires separate funding accounts for operation and maintenance, equipment replacement, and debt retirement;

(4) establishes financial management procedures for the sewer service charge system;

(5) establishes procedures for public noticing sewer service charge system amendments;

(6) prohibits new inflow connections to be added to the wastewater treatment system;

(7) requires new sewers and connections to be properly designed and constructed; and

(8) prohibits toxics and other pollutants to be placed in the municipal wastewater treatment system in amounts or concentrations that endanger public safety or the physical integrity of the treatment system or cause exceedance of permit limitations;

E. an affidavit of publication for the sewer use ordinance and the sewer rate ordinance;

F. for individual sewage treatment system projects, a certification that the municipality has enacted an ordinance that:

(1) adopts the requirements of chapter 7080;

(2) prohibits nonsewage discharges from nonresidential structures with wastewater flows or nonsewage discharges from residential structures with a water-using business to individual sewage treatment systems; and

(3) establishes a maintenance plan;

G. a certification that the municipality is enforcing the ordinance under item F.

**Subp. 5. Extension procedure.** If a municipality cannot submit the applicable information required under subpart 2, 3, or 4 within the deadline under subpart 1, it must make a written request to the commissioner for an extension of time. This request must outline the reason for needing the extension and the proposed submittal dates, and must be signed by an authorized municipal representative.

**Statutory Authority:** *MS s 116.07; 116.182; 446A.07*

**History:** *13 SR 1690; 15 SR 288; 17 SR 3097*

## **7077.0281 COMMISSIONER CERTIFICATION TO AUTHORITY.**

**Subpart 1. Certification of planning projects.** Upon review and approval of the documents required by part 7077.0280, subpart 2, and a determination that the project meets the applicable requirements of the act, federal regulations, state statutes, and this chapter, the commissioner shall certify the project to the authority.

**Subp. 2. Certification of design projects.** Upon review and approval of the documents required by part 7077.0280, subpart 3, and a determination that the project meets the applicable requirements of the act, federal regulations, state statutes, and this chapter, the commissioner shall certify the project to the authority.

**Subp. 3. Certification of construction projects.** Upon the completion of items A to D, the commissioner shall certify the project to the authority.

A. The environmental review requirements of chapter 4410, Minnesota Statutes, chapter 116D, and Code of Federal Regulations, title 40, part 35, subpart K, have been satisfactorily met.

B. The municipality has obtained a NPDES or SDS permit from the agency for the project, if applicable.

C. The documents required under part 7077.0280, subpart 4, have been reviewed and approved.

D. The project has been determined to meet the applicable requirements of the act, federal regulations, Minnesota Statutes, and this chapter.

Subp. 4. **Amended certification.** If there is significant alteration to a project after the commissioner certifies the project to the authority, the municipality must request, in writing, an amended certification. Upon review and approval of the request and project alteration, the commissioner shall send an amended certification to the authority.

**Statutory Authority:** *MS s 116.07; 116.182; 446A.07*

**History:** *13 SR 1690; 15 SR 288; 17 SR 3097*

### 7077.0284 INSPECTIONS.

The commissioner may conduct inspections of the project under Minnesota Statutes, section 115.03, subdivision 1, paragraph (f).

**Statutory Authority:** *MS s 116.07; 116.182; 446A.07*

**History:** *13 SR 1690; 15 SR 288; 17 SR 3097*

### 7077.0286 COMPLETION OF CONSTRUCTION AND INITIATION OF OPERATION.

Subpart 1. **Construction reporting requirements.** At least 60 days before the scheduled initiation of operation, the municipality shall submit to the commissioner, as appropriate:

A. evidence that the municipality has a wastewater treatment facility operator, certified for the classification of the treatment system according to chapter 9400, directly responsible for the operation of the system; and

B. an operation and maintenance manual or a maintenance plan for the commissioner's approval.

Subp. 2. **Prefinal inspection.** The municipality must notify the commissioner in writing when it is ready to initiate operation and request that a prefinal inspection be scheduled before initiation of operation can occur. The purpose of this inspection is to identify construction deficiencies and to set target dates for completion of construction items.

Subp. 3. **Initiation of operation.**

A. Before initiation of operation will be approved, a prefinal inspection must be held and the commissioner must approve the initiation of operation date. Systems with an NPDES or SDS permit must also have the items under subpart 1, item A, completed and subpart 1, item B, approved by the commissioner.

B. After initiation of operation, the municipality must notify the commissioner in writing of the initiation of operation date within ten days following initiation of operation.

C. The date of initiation of operation is the first day of the one-year performance period.

Subp. 4. **Final inspection.** A final inspection of the wastewater treatment system shall be performed by agency staff when all the construction is complete except for minor weather-related components. The purpose of the inspection is to verify that construction is complete and conforms with the approved plans and specifications and change orders. The municipality shall request that a final inspection be performed when it believes construction is complete.

**Statutory Authority:** *MS s 116.182*

**History:** *17 SR 3097*

### 7077.0288 PROJECT PERFORMANCE.

Subpart 1. [Repealed, 15 SR 288]

Subp. 2. **Performance certification.** One year after the initiation of operation of the project, the municipality shall submit to the commissioner the following items, as appropriate for a project:

A. a certification stating whether the project meets the following performance standards:

(1) the project has been completed according to approved construction plans and specifications and change orders;

(2) the municipality has a sufficient number of trained and capable personnel, including a wastewater treatment facility operator having a valid state certificate, to provide adequate operation and maintenance of the project, and the project requires only the operation and maintenance as is outlined as normal and routine in the approved operation and maintenance manual or maintenance plan;

(3) the project accepts hydraulic and organic loading to the extent described in the approved design specifications and NPDES OR SDS permit conditions;

(4) nonresidential wastewater discharges to the treatment system do not interfere with the operation of the project, disposal, or use of septage or municipal sludges, and do not degrade groundwater or surface water;

(5) septage treatment and disposal is accomplished in accordance with applicable state, federal, and local standards; and

(6) the project meets the requirements in the approved plans and specifications for the prevention of contamination of underground drinking water sources beyond the property boundary;

B. a start-up evaluation report describing the performance of the project;

C. a revised operation and maintenance manual or revised maintenance plan based on actual operating experience obtained during the one-year start-up period;

D. documentation that the municipality is collecting sufficient funds to provide for operation and maintenance and equipment replacement costs in conformance with the approved operation and maintenance manual on a form provided by the agency; and

E. two copies of "as-built" plans and specifications on microfiche.

Subp. 3. **Corrective action report.** If the commissioner or the municipality determines that the project does not meet the project performance standards under subpart 2, item A, the municipality shall:

A. within 30 days of the performance certification date or within 30 days of the commissioner's determination that the project does not meet the project performance standards, submit a corrective action report that includes:

(1) an analysis of the project's failure to meet the performance standards;

(2) an estimate of the nature, scope, and cost of the corrective action necessary to bring the project into compliance with its performance standard; and

(3) a schedule for initiating, in a timely manner, the necessary corrective action work and for meeting the performance certification requirements following a start-up period that is reasonable for the type of corrective action work to be performed; and

B. following the completion of corrective action work, submit a performance certification as specified under subpart 2 according to the schedule in item A, subitem (3).

**Statutory Authority:** *MS s 116.07; 116.182; 446A.07*

**History:** *13 SR 1690; 15 SR 288; 17 SR 3097*

#### **7077.0290 COMMISSIONER'S NOTIFICATION OF PERFORMANCE.**

The commissioner shall provide written notification about the satisfactory performance of a project to the authority upon receipt of the items listed in part 7077.0288, subpart 1, and after:

A. the commissioner concurs with the certification provided under part 7077.0288, subpart 1, item A; or

B. the commissioner approves the report provided under part 7077.0288, subpart 2, item A.

**Statutory Authority:** *MS s 116.182*

**History:** *17 SR 3097*

**7077.0292 REQUEST TO WITHHOLD FINANCIAL ASSISTANCE PAYMENTS.**

Failure of a project to conform substantially to approved plans and specifications or failure of a municipality to comply with the requirements of parts 7077.0286 and 7077.0288 constitutes grounds for the commissioner to request that the authority withhold payments to the municipality. Once an agreement for correcting the condition which led to the withholding of funds is reached between the commissioner and the municipality, the commissioner will recommend to the authority that the retained funds be released according to the provisions in the agreement.

**Statutory Authority:** *MS s 116.07; 116.182; 446A.07*

**History:** *13 SR 1690; 15 SR 288; 17 SR 3097*

**COMBINED SEWER OVERFLOW ABATEMENT PROGRAM****7077.0300 PURPOSE.**

State financial assistance is available for combined sewer overflow abatement for those municipalities eligible under Minnesota Statutes, section 116.162, subdivision 3. Parts 7077.0300 to 7077.0330 provide for the administration of the program for combined sewer overflow abatement financial assistance awarded on or after July 1, 1990.

**Statutory Authority:** *MS s 116.07; 116.182*

**History:** *15 SR 288; 17 SR 3097*

**7077.0305** [Repealed, 17 SR 3097]

**7077.0310 APPLICATIONS.**

Subpart 1. **Complete application required.** No municipality is eligible for combined sewer overflow abatement financial assistance unless a complete application has been submitted to the agency. A complete application must include all documents required under subparts 2 and 3.

Subp. 2. **Timing and form of application.** The following provisions govern the timing and form of financial assistance applications:

A. The application shall be on the form provided by the agency.

B. An eligible municipality shall submit a complete application by December 1 unless a different date is provided in the municipality's NPDES permit, in which case the deadline in the permit shall take precedence.

Subp. 3. **Additional information.** A municipality that applies for state financial assistance for a combined sewer overflow abatement project shall submit the following information for the commissioner's review and approval:

A. A description of the scope of work including a list and schedule of the construction projects to be funded, or by following requirements of an NPDES permit, plus additional scope of work as may be necessary to use any additional funds that may become available.

B. A resolution of the governing body of the municipality that authorizes the filing of the application and that designates the municipal official authorized to sign the application, financial assistance offer, and other related documents.

C. A proposed engineering contract that includes, at a minimum, the following provisions:

(1) full-time inspection during construction and written monthly reports submitted to the agency describing the type of construction inspected and the time involved in inspection;

(2) two sets of "as-built" plans and specifications on microfiche.

D. A certificate of adequate errors and omissions insurance carried by the engineering firm.

E. A cost breakdown for all project work to be funded by the financial assistance, including separation of eligible and ineligible items, in a format provided by the agency.

F. Plans and specifications as required under part 7077.0155 for the scope of work described in item A.

G. A project schedule on a form provided by the agency.

**Statutory Authority:** *MS s 116.07; 116.182*

**History:** *15 SR 288; 17 SR 3097*

#### **7077.0315 FINANCIAL ASSISTANCE AWARDS.**

Each fiscal year that funds are appropriated for combined sewer overflow abatement, the commissioner shall award financial assistance to municipalities that meet the requirements of part 7077.0310. The municipalities shall be awarded a proportionate share of the appropriation available in that fiscal year. The proportionate share for each eligible municipality is as follows:

- A. Minneapolis, 24.2 percent;
- B. Saint Paul, 71.6 percent; and
- C. South Saint Paul, 4.2 percent.

**Statutory Authority:** *MS s 116.07*

**History:** *15 SR 288*

#### **7077.0320 CHANGE ORDERS.**

Subpart 1. **In general.** A change order must be submitted to the commissioner for any change that:

- A. alters the design or scope of the project;
- B. increases or decreases the contract price;
- C. changes the construction completion date;
- D. causes a deviation from the approved plans and specifications; or
- E. causes a substitution or replacement of equipment, suppliers, or subcontractors.

Subp. 2. **Contents.** Change orders submitted to the commissioner must contain the following:

- A. signatures of the municipality's authorized representative, the project engineer, and the contractor;
- B. the date on which the municipality and the contractor executed the change order; and
- C. a complete description of the change.

Subp. 3. **Approval of change orders.** Approval of change orders is required as follows:

A. Proposed changes that substantially alter the type of facility or its efficiency, versatility, or reliability, must be submitted to the commissioner for prior approval.

B. Change orders not requiring the commissioner's prior approval under item A must be submitted to the commissioner for review and approval within one month after the date on which the municipality, its engineer, or other authorized agent, and the contractor execute the change order.

C. Proposed changes described in item A do not require prior written approval from the commissioner when the work is agreed by the commissioner to be of an emergency nature.

**Statutory Authority:** *MS s 116.07*

**History:** *15 SR 288*

#### **7077.0325 PROJECT PERFORMANCE.**

Subpart 1. **Notification of initiation of operation.** The municipality shall notify the commissioner, in writing, of the project's initiation of operation date within ten days following initiation of operation.

Subp. 2. **Performance certification.** One year after the initiation of operation of the project, the municipality shall submit to the commissioner the following items:

A. a certification stating whether the project meets the following performance standards:

(1) the project has been completed according to approved plans and specifications and change orders;

(2) the project accepts hydraulic loading to the extent described in the approved design specifications and complies with all NPDES/SDS permit requirements; and

(3) there is complete separation of stormwater and sanitary flows within the project area, with the exception of flows from building rainleader connections authorized under the NPDES/SDS permit;

B. a start-up evaluation report describing the performance of the project;

C. a certification by the contractor that the project was built according to the approved plans and specifications and change orders; and

D. two copies of the "as-built" plans and specifications on microfiche.

**Subp. 3. Corrective action report.** If the commissioner or the municipality determines that the project does not meet the project performance standards under subpart 2, item A, the municipality shall:

A. Submit within 30 days of the performance certification date a corrective action report that includes:

(1) an analysis of the project's failure to meet the performance standards;

(2) an estimate of the nature, scope, and cost of the corrective action necessary to bring the project into compliance; and

(3) a schedule for initiating, in a timely manner, the necessary corrective action work and for meeting the performance certification requirements following a start-up period that is reasonable for the type of corrective action work to be performed.

B. Following the completion of corrective action work, submit a performance certification as specified under subpart 1 according to the schedule in item A, subitem (3).

**Statutory Authority:** *MS s 116.07; 116.182*

**History:** *15 SR 288; 17 SR 3097*

### **7077.0330 PAYMENT OF STATE FINANCIAL ASSISTANCE.**

**Subpart 1. Payments up to 90 percent of assistance.** The municipality may request in writing periodic payments as work on the project progresses up to 90 percent of the total amount of the financial assistance award. No payments will be made for project work until the municipality has submitted the following items, if applicable:

A. the accepted bid proposal;

B. detailed tabulation of all bids received;

C. payment and performance bonds; and

D. executed construction contract and notice to proceed.

**Subp. 2. Payments beyond 90 percent of assistance.** Payments will not be made beyond 90 percent of the financial assistance amount until a final inspection of the project is performed by agency staff and the municipality has met the requirements of part 7077.0325.

**Subp. 3. Retained payments.** Financial assistance payments shall be withheld if the commissioner determines that a project does not substantially conform to approved plans and specifications, or there has been a major breach of a condition in the financial assistance agreement, or the municipality has failed to comply with the applicable requirements of this chapter. If funds are withheld pursuant to this subpart, further payments will be made when the condition causing the withholding has been corrected, or as otherwise agreed to by the commissioner and the municipality.

**Statutory Authority:** *MS s 116.07*

**History:** *15 SR 288*

**7077.0400** [Renumbered 7077.0111]

**7077.0405** [Renumbered 7077.0278]

**7077.0410** [Renumbered 7077.0280]

**7077.0415** [Renumbered 7077.0281]

**7077.0420** [Repealed, 17 SR 3097]

# MINNESOTA RULES 1995

1185

WASTEWATER TREATMENT ASSISTANCE 7077.0515

**7077.0425** [Renumbered 7077.0284]

**7077.0430** [Repealed, 17 SR 3097]

**7077.0435** [Repealed, 17 SR 3097]

**7077.0440** [Renumbered 7077.0288]

**7077.0445** [Renumbered 7077.0292]

## CORRECTIVE ACTION GRANTS PROGRAM

### **7077.0500 PURPOSE.**

The corrective action grants program provides grants according to Minnesota Statutes, section 116.181, to municipalities with wastewater treatment facilities funded under the Clean Water Act, United States Code, title 33, sections 1281 to 1299, or the state independent grants program that are unable to meet performance standards. The grants are for the purpose of correcting performance failures. The program is jointly administered by the Minnesota Pollution Control Agency and the Minnesota Public Facilities Authority. The program applies to grants made before, on, or after July 1, 1990. Parts 7077.0500 to 7077.0560 pertain to the agency's responsibilities in administering the program.

**Statutory Authority:** *MS s 116.07; 116.181 subd 5*

**History:** *13 SR 2330; 15 SR 288*

### **7077.0505 DEFINITION.**

Subpart 1. [Repealed, 15 SR 288]

Subp. 2. [Repealed, 15 SR 288]

Subp. 3. [Repealed, 15 SR 288]

Subp. 4. [Repealed, 15 SR 288]

Subp. 5. **Performance standards.** "Performance standards" means, for the purpose of this program, the criteria established for a wastewater treatment system under the Clean Water Act, United States Code, title 33, sections 1281 to 1299, or the state independent construction grants program for the purpose of determining the project's satisfactory performance.

**Statutory Authority:** *MS s 116.07; 116.181; 116.182*

**History:** *13 SR 2330; 15 SR 288; 17 SR 3097*

### **7077.0510 ELIGIBILITY FOR PARTICIPATION.**

To be eligible for participation in the program, a municipality must meet the following requirements:

A. The municipality received a wastewater treatment facility construction grant under the Clean Water Act, United States Code, title 33, sections 1281 to 1299, or the state independent construction grants program after December 29, 1981. A municipality that received a grant under the individual on-site wastewater treatment system grants program or the capital cost component grant program does not meet this eligibility requirement.

B. The population served by the wastewater treatment facility is 1,500 or less.

C. The municipality's wastewater treatment facility is unable to meet performance standards and the inability was identified by the commissioner before the end of the one-year performance certification period established by Code of Federal Regulations, title 40, section 35.2218, or part 7077.0250, subpart 2, item B.

D. The municipality has not received a grant under the corrective action grants program.

**Statutory Authority:** *MS s 116.07; 116.181 subd 5*

**History:** *13 SR 2330; 15 SR 288*

### **7077.0515 ELIGIBLE AND INELIGIBLE COSTS.**

Subpart 1. **Construction and land costs.** Construction and land costs retain the same eligibility as they had under the Clean Water Act, United States Code, title 33, sections 1281



to 1299, or the state independent grants program at the time of the original construction grant award.

Subp. 2. **Construction and land costs incurred prior to award.** Construction and land costs incurred prior to the commissioner's written approval of the corrective action report are not eligible. Construction and land costs incurred after written approval of the corrective action report and before grant award will be considered eligible at the time of application if the municipality receives the commissioner's written authorization to proceed with construction.

Subp. 3. **Administrative, engineering, and legal costs.** Administrative, engineering, and legal costs (collectively) incurred as a result of the corrective action are eligible up to a maximum of 25 percent of the construction costs approved in the corrective action report and eligible under subpart 1.

**Statutory Authority:** *MS s 116.07; 116.181 subd 5*

**History:** *13 SR 2330; 15 SR 288*

#### **7077.0520 REQUIREMENTS PRIOR TO APPLICATION.**

An eligible municipality may apply for a grant only after the following documents are submitted to the agency and approved by the commissioner:

A. a corrective action report that includes:

(1) an analysis of the causes of the wastewater treatment facility's failure to meet performance standards;

(2) a selected alternative for corrective action including a preliminary design and cost estimates for all feasible alternatives; and

(3) a schedule for undertaking the selected corrective action, including proposed dates for meeting permit requirements and for certifying that the project performance standards will be met;

B. plans and specifications, if applicable, to implement the approved corrective action; and

C. an assurance, including related documentation, that all remedies short of litigation have been pursued in an effort to complete the approved corrective action including, where applicable, at a minimum, the following:

(1) invoking the provisions of equipment warranties;

(2) seeking redress from construction contractor performance bonds;

(3) seeking redress from design engineer errors and omissions insurance; and

(4) initiating enforcement action against industrial dischargers.

**Statutory Authority:** *MS s 116.07; 116.181 subd 5*

**History:** *13 SR 2330; 15 SR 288*

#### **7077.0525 CONTRACT ASSIGNMENT.**

A municipality that enters into a contract with a contractor or engineer for the planning, design, or construction of a part of or an entire wastewater treatment system, to be paid for in whole or in part by state corrective action grant funds, shall provide in the contract that any or all of its rights and duties thereunder may be assigned to the commissioner without the agreement of the contractor or engineer. The assignment may be made by mutual agreement between the municipality and the commissioner or according to an agency assumption of municipal powers under Minnesota Statutes, section 115.48.

**Statutory Authority:** *MS s 116.07*

**History:** *15 SR 288*

#### **7077.0530 CONTRACT BENEFICIARY.**

A municipality that enters into a contract with a contractor or engineer for the planning, design, or construction of a part of or an entire wastewater treatment system, to be paid for in whole or in part by state corrective action grant funds, shall provide in the contract that the agency is a third-party beneficiary to the contract.

**Statutory Authority:** *MS s 116.07*

**History:** *15 SR 288*

# MINNESOTA RULES 1995

1187

WASTEWATER TREATMENT ASSISTANCE 7077.0535

## 7077.0535 APPLICATION.

Subpart 1. **Agency notification.** After the preapplication items in part 7077.0520 are approved by agency staff, the commissioner shall notify the municipality that it is eligible to apply for a corrective action grant.

Subp. 2. **Application requirements.** The municipality shall apply for a corrective action grant on a form provided by the authority and submit the following information for the commissioner's review and approval:

A. A plan, endorsed by resolution of the municipality's governing body, for recovering the costs of the proposed corrective action from the responsible parties.

B. A report on the current status of negotiations or litigation.

C. A proposed engineering contract that includes, at a minimum, the following provisions:

(1) full-time inspection during construction and written monthly reports submitted to the agency describing the type of construction inspected and the time involved in inspection;

(2) two sets of "as built" plans and specifications on microfiche for submittal to the agency;

(3) preparation of an operation and maintenance manual, if applicable; and

(4) start-up services during the first year of operation, if applicable, including:

(a) direct the operation of the project and revise the operation and maintenance manual as necessary to accommodate actual operating experience;

(b) train or provide for training of operating personnel and prepare necessary curricula and training materials; and

(c) advise the municipality whether the project is meeting performance standards.

D. A certificate of adequate errors and omissions insurance carried by the engineering firm.

E. A signature and registration number of the consulting engineer accompanying the following certification statement:

Corrective action for the facilities described in this grant application has 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 the performance standards required by the Minnesota Pollution Control Agency will be met after the work detailed in the approved corrective action report, dated ....., is completed and that the corrected facilities will be capable of consistently producing the required effluent quality, provided that the facilities are operated in conformance with the approved operation and maintenance manual and the volume and characteristics of raw wastewater are within the flow data presented in the plans and specifications approved for the original project or in the corrective action report modifications.

F. A treatment agreement with each major contributing industry.

G. A cost breakdown for all project work to be funded by the grant, including separation of grant eligible and ineligible items, in a format provided by the agency.

H. If necessary, a comprehensive legal opinion identifying that the municipality has sufficient legal vested interest in all sites, easements, or rights-of-way to ensure immediate construction and undisturbed use for the estimated life of the facilities.

Subp. 3. **Three copies.** Corrective action grant application forms and attachments, must be submitted in triplicate to the authority. At least one set of forms and attachments must contain original signatures.

**Statutory Authority:** *MS s 116.07; 116.181 subd 5*

**History:** *13 SR 2330; 15 SR 288*

**7077.0540 CERTIFICATION OF APPLICATION FOR AWARD.**

Subpart 1. **Priority.** The commissioner shall certify grants to the authority for award in the order that applications that meet the requirements of parts 7077.0520 and 7077.0535 are received and to the extent that funds are available.

Subp. 2. **Amount of award.** Except as provided in part 7077.0560, subpart 3, the amount of the grant will be 80 percent of the total corrective action costs, eligible and ineligible, or the amount of the eligible costs, whichever is less.

Subp. 3. [Repealed, 15 SR 288]

Subp. 4. **Certification to authority.** Upon review and approval of the documents required under parts 7077.0520 and 7077.0535, the commissioner shall certify to the authority that the project meets the statutory requirements and the requirements of this chapter and is eligible for an award in the amount determined under subpart 2.

Subp. 5. [Repealed, 15 SR 288]

**Statutory Authority:** *MS s 116.07; 116.181 subd 5*

**History:** *13 SR 2330; 15 SR 288*

**7077.0545 GRANT AMENDMENTS.**

Subpart 1. **Maximum grant amount.** No grant shall be amended to exceed \$500,000.

Subp. 2. **After-bid amendments.** A municipality shall submit a written request for an after-bid amendment when construction contracts differ from construction costs estimated in the grant certification. After-bid grant amendments shall be based on the cost of the completed procurement actions and shall be dependent upon the availability of additional grant funds. The commissioner shall certify the amendment to the authority if funds are available and the costs are eligible.

Subp. 3. **Final amendment.** A municipality shall submit a written request for a final amendment when construction has been completed. The commissioner shall certify the amendment to the authority if funds are available and the costs are eligible. The amendment shall:

A. be based on the eligible construction costs and change orders approved by the commissioner; and

B. increase the grant amount under part 7077.0515, subpart 3, as the amount of grant eligible construction costs increase through approved change orders.

**Statutory Authority:** *MS s 116.07*

**History:** *15 SR 288*

**7077.0550 CHANGE ORDERS.**

Subpart 1. **In general.** A change order must be submitted to the commissioner for any change that:

A. alters the design or scope of the project;

B. increases or decreases the contract price;

C. changes the construction completion date;

D. causes a deviation from the approved plans and specifications; or

E. causes a substitution or replacement of equipment, suppliers, or subcontractors.

Subp. 2. **Contents.** Change orders submitted to the commissioner must contain the following:

A. signatures of the municipality's authorized representative, the project engineer, and the contractor;

B. date on which the municipality and the contractor execute the change order;

C. identification of grant eligible and ineligible costs;

D. a complete description and justification of the change;

E. an explanation of why the change was not included in the original plans and specifications and contractor's bid;

F. a detailed cost breakdown for the change from the contractor showing the costs of materials, labor, overhead, and profit; and

G. a cost estimate for the change from the project engineer and an analysis of any differences between the engineer's estimate and the contractor's cost breakdown. If the project engineer's estimate differs from the contractor's price by more than ten percent, an explanation of how the costs were agreed to is required.

Subp. 3. **Eligible costs.** The following costs associated with approved change orders are eligible for grant assistance:

A. construction costs resulting from defects in the plans and specifications that would have been eligible and would have been incurred if the plans and specifications had been free of the defects, excluding the costs of any rework, redesign, restocking, small tools, supervision, delay, acceleration, or disruption caused by the defects;

B. costs, determined by the commissioner to be the result of unanticipated site conditions;

C. combined profit and overhead costs for the contractor or subcontractor that actually performs the change order work not exceeding 15 percent of the costs of materials and labor; and

D. combined profit and overhead costs for a contractor or subcontractor that administers the change order but does not actually perform the change order work not exceeding five percent of the costs of materials and labor.

Subp. 4. **Approval of change orders.** Approval of change orders is required as follows:

A. Proposed changes that substantially alter the type of treatment process, or its efficiency, versatility, or reliability, must be submitted to the commissioner for prior approval.

B. Change orders not requiring the commissioner's prior approval under item A must be submitted to the commissioner for review and approval within one month after the date on which the municipality, its engineer, or other authorized agent, and the contractor execute the change order.

C. Proposed changes described in item A do not require prior written approval from the commissioner when the work is agreed by the commissioner to be of an emergency nature.

**Statutory Authority:** *MS s 116.07; 116.181 subd 5*

**History:** *13 SR 2330; 15 SR 288*

#### **7077.0555 PAYMENTS.**

Subpart 1. **Request for payments.** The municipality shall make periodic payment requests for eligible costs as costs are incurred on a form provided by the authority and submit a summary of incurred costs prepared on a form provided by the agency. The commissioner shall certify to the authority whether the municipality has met payment conditions under this part.

Subp. 2. **Payment conditions.** Failure of a project to meet any of the following conditions constitutes grounds for the commissioner to request that the authority withhold payments to the municipality:

A. The municipality must submit a quarterly summary of actions taken to recover corrective action costs from or to complete needed corrective work by the responsible parties.

B. The municipality must support claims of incurred administration, legal, and engineering costs specified under part 7077.0515 with documentation.

C. The project must substantially conform to the approved corrective actions report.

D. The project must be built in accordance with the approved plans and specifications for the corrective action.

E. The progress of the project must conform with the approved project schedule.

Subp. 3. **Retainage.** The commissioner shall withhold certification for payment of the final ten percent of the grant until the municipality has successfully completed all activities in the corrective action report, has affirmatively certified that the project meets the performance standards, and has met the recovery of costs requirement.

Subp. 4. **Release of withheld payments.** If an agreement is reached between the commissioner and the municipality, the commissioner shall recommend to the authority that the withheld funds be released according to the provisions of the agreement. Failure of the municipality to reach an agreement with the commissioner within 30 days of receiving written notification that payments are being withheld constitutes grounds for the commissioner to request that the authority commence action for termination of the grant and repayment of the funds.

**Statutory Authority:** *MS s 116.07; 116.181 subd 5*

**History:** *13 SR 2330; 15 SR 288*

#### 7077.0560 RECOVERY OF GRANT FUNDS.

Subpart 1. **Generally.** A municipality that is awarded a corrective action grant shall seek recovery from a person who is responsible for the failure of the facility to perform.

Subp. 2. **Recovery before corrective action grant award.** In the event that the municipality recovers an amount of money from the responsible persons before the corrective action grant is awarded, the amount of the award shall be determined by subtracting the amount recovered for grant eligible work from the total eligible costs determined under part 7077.0515.

Subp. 3. **Recovery after corrective action grant award.** In the event that the municipality recovers an amount of money from the responsible persons after the corrective action has been awarded, the grant will be amended by subtracting the amount recovered for grant eligible work from the total eligible costs determined under part 7077.0515. If corrective action grant funds have been paid to the municipality in excess of the amended grant amount, the municipality shall repay the excess amount to the state.

Subp. 4. **Approval of negotiated settlement.** A municipality must obtain the written approval of the commissioner of any settlement negotiated with the responsible persons before the municipality may enter into the settlement, whether the settlement is before or after litigation has begun and whether or not a corrective action grant has been awarded, if the municipality wants to maintain its eligibility for a corrective action grant. Failure of the municipality to obtain written approval from the commissioner of any settlement constitutes grounds for the commissioner to recommend denial of a corrective action grant or to request that the authority commence action to terminate the grant and seek repayment of the funds from the municipality if a grant has already been awarded.

Subp. 5. **Failure to seek recovery.** Failure of a municipality that has been awarded a corrective action grant to seek recovery of corrective action costs from responsible persons constitutes grounds for the commissioner to request that the authority withhold future payments to the municipality and seek repayment of the funds already paid.

**Statutory Authority:** *MS s 116.07; 116.181 subd 5*

**History:** *13 SR 2330; 15 SR 288*

#### CAPITAL COST COMPONENT PROGRAM

##### 7077.0600 PURPOSE.

The capital cost component grant program provides grants to municipalities for part of the capital cost component of the service fee under a service contract with a private vendor to construct and operate wastewater treatment systems according to the provisions of Minnesota Statutes, section 116.18, subdivision 3b. The program is jointly administered by the Minnesota Pollution Control Agency and the Minnesota Public Facilities Authority. The program applies to grants made before, on, or after July 1, 1990. Parts 7077.0600 to 7077.0660 provide for the agency's responsibilities for the administration of the program.

**Statutory Authority:** *MS s 116.07; 116.18; 116.182*

**History:** *13 SR 1238; 15 SR 288; 17 SR 3097*

**7077.0605 [Repealed, 17 SR 3097]**

**7077.0610 ELIGIBILITY.**

To be eligible for a capital cost component grant, a municipality must be listed on the project priority list.

**Statutory Authority:** *MS s 116.07; 116.18; 116.182*

**History:** *13 SR 1238; 15 SR 288; 17 SR 3097*

**7077.0615 GRANT APPLICATIONS.**

Subpart 1. **Notice of taking applications.** The commissioner shall request that the authority publish notice in the State Register that capital cost component grant applications will be accepted by the authority. The application closing date must be established by the commissioner and must be no less than 90 days after the publication date.

Subp. 2. **Application requirements.** The municipality shall apply for a capital cost component grant on an application form provided by the commissioner. The municipality shall submit the following information with the application:

A. a copy of the municipality's request for proposals for construction and operation of the wastewater treatment system;

B. an engineering report containing:

(1) a description of the geographic planning area and the population to be served by the wastewater treatment system;

(2) the effluent limitations for which the wastewater treatment system is being designed;

(3) the municipality's existing wastewater flows and loadings data on a form provided by the agency; and

(4) the municipality's estimated future wastewater flows and loadings data on a form provided by the agency;

C. a copy of all proposals received in response to the municipality's request for proposals; and

D. a design summary of the wastewater treatment system with all components listed and sized.

Subp. 3. **Other information.** After the application is received, the applicant shall submit other information requested by the commissioner necessary to clarify the application.

Subp. 4. **Application closing date.** The application must be submitted to the authority or postmarked by the noticed application closing date.

Subp. 5. **Incomplete applications.** Municipalities that submit applications that do not include the information required in subpart 2 or that are not submitted by the application closing date are ineligible for funding. The municipalities may reapply in a later application period.

**Statutory Authority:** *MS s 116.07; 116.181; 116.182*

**History:** *13 SR 1238; 15 SR 288; 17 SR 3097*

**7077.0620 SELECTION OF ELIGIBLE GRANTEEES.**

Subpart 1. **Ranking of applicants.** Within 30 days of the close of the application period, the commissioner shall rank those applicants who have submitted a complete and timely application according to their priority ranking on the project priority list.

Subp. 2. **Determination of grantees.** Within 90 days of the close of the application period, the agency shall determine how many of the eligible applicants will receive a capital cost component grant. Grants must be awarded in priority order to as many applicants as the available funding will allow.

**Statutory Authority:** *MS s 116.07; 116.18; 116.182*

**History:** *13 SR 1238; 15 SR 288; 17 SR 3097*

**7077.0625 AMOUNT OF GRANT AWARD.**

Subpart 1. **State and federal construction grants program list.** Each August the commissioner shall prepare a list of all municipal wastewater treatment systems that have ac-

cepted bids under the state and federal construction grants program during the three previous state fiscal years. The municipal wastewater treatment systems shall be listed in order of the population of the service area.

Subp. 2. **Grant amount.** The grant applicant shall be placed on the state and federal construction grants program list described in subpart 1 based on the population of the grantee's service area. The amount of the grant must be 50 percent of the average total eligible costs of the ten municipalities the closest in population to the grantee's service area.

Subp. 3. **Grant restriction.** No more than 50 percent of the total funds available for the award of capital cost component grants for any fiscal year shall be awarded to a grantee. A grantee that receives only a part of the grant to which it is entitled because of this restriction is entitled to receive a grant amendment in the next year or years, if capital cost component grant money is available, until the full amount of the grant is awarded. The grantee is entitled to priority over new grantees in the next year or years. The amount of the grant must not be recalculated under subparts 1 and 2.

Subp. 4. **Grant limitation.** No grant shall exceed 100 percent of the actual costs of design and construction of the wastewater treatment system. The cost of acquiring an existing system must not be included as an eligible cost for the purpose of determining actual costs.

**Statutory Authority:** *MS s 116.07; 116.18; 116.182*

**History:** *13 SR 1238; 15 SR 288; 17 SR 3097*

**7077.0630** [Repealed, 17 SR 3097]

**7077.0635** [Repealed, 17 SR 3097]

**7077.0640 GRANT CONDITIONS.**

Subpart 1. **Statutory and regulatory requirements.** The grantee shall comply with applicable statutory and regulatory requirements for capital cost component grants.

Subp. 2. **General conditions.** The grantee shall comply with the conditions in items A to E during the course of constructing the wastewater treatment system.

A. Within 365 days after the grant award date, the grantee shall submit to the commissioner for technical review and approval complete plans and specifications for the wastewater treatment system. The commissioner shall approve or deny approval of the plans and specifications within 90 days after initial submittal. The grantee and the commissioner may agree to one extension of up to an additional 90 days.

B. The grantee shall not initiate construction of the project until:

(1) the environmental review process in chapter 4410 and Minnesota Statutes, chapter 116D, has been completed;

(2) the grantee has obtained the required permits for the project;

(3) the commissioner has approved the plans and specifications for the project; and

(4) a copy of the executed service contract between the grantee and the private vendor has been submitted to the commissioner along with a certification from the grantee that the service contract satisfies all statutory requirements applicable to the contract.

C. The project must be constructed in accordance with the approved plans and specifications and any approved change orders.

D. A grantee proposing to make changes in the project that alter the type, efficiency, or reliability of the treatment process shall submit to the commissioner information as the commissioner requires to determine the impact of the proposed change on the environment. Changes to the project that alter the type, efficiency, or reliability of the treatment process must not be made without the prior approval of the commissioner. The commissioner shall review a proposed change in the same manner as the original project was reviewed for compliance with applicable pollution control requirements. Change orders for changes not requiring prior approval must be submitted to the commissioner as soon as possible. A change in the type, efficiency, or reliability of the treatment process without prior approval from the commissioner shall constitute grounds for the commissioner to request that the authority terminate the grant of a grantee.

E. Before placing the wastewater treatment system into operation, the grantee shall submit to the commissioner an operations and maintenance manual for the wastewater treatment system. The commissioner shall review the manual and provide comments to the grantee.

**Statutory Authority:** *MS s 116.07; 116.18; 116.182*

**History:** *13 SR 1238; 15 SR 288; 17 SR 3097*

**7077.0645** [Repealed, 17 SR 3097]

**7077.0650 GRANT PAYMENT.**

Subpart 1. **Request for payment.** A grantee seeking a grant payment shall submit a payment request to the authority on a form provided by the authority.

Subp. 2. **Schedule of payment.** Capital cost component grants shall be paid in accordance with the following schedule:

A. 80 percent of the grant upon compliance by the grantee with the following conditions:

(1) submission of a certification that the wastewater treatment system has been completed in accordance with the approved plans and specifications and approved change orders;

(2) submission of a certification of compliance with all permit conditions for a period of two consecutive calendar months following project completion;

(3) submission of a certification of compliance with all grant conditions in part 7077.0640, subpart 2;

(4) submission of two sets of "as-built" plans and specifications to the commissioner on microfiche; and

(5) submission of written documentation to the commissioner of actual design and construction costs incurred for the wastewater treatment system.

B. The remaining 20 percent of the grant upon compliance by the grantee with the following conditions:

(1) submission of a certification of compliance with all permit conditions for a period of 12 consecutive calendar months following project completion;

(2) submission of a certification that the project is capable of accepting hydraulic and organic loadings to the extent designed for in the approved plans and specifications; and

(3) submission of a certification that the project will have no overflows or by-passes under design conditions.

Subp. 3. **Verification of compliance.** Before a grant payment is made, the commissioner shall verify that the grantee has complied with part 7077.0630 and with the grantee's permit conditions.

Subp. 4. **Certification of payment.** Within ten days of receipt of a payment request, the commissioner shall determine whether the grantee qualifies for payment. If the commissioner determines that payment is not appropriate, the commissioner shall advise the grantee of the deficiencies in the request. If the commissioner determines that payment is appropriate, the commissioner shall certify to the authority that payment should be made.

**Statutory Authority:** *MS s 116.07; 116.18; 116.182*

**History:** *13 SR 1238; 15 SR 288; 17 SR 3097*

**7077.0655** [Repealed, 17 SR 3097]

**7077.0660** [Repealed, 17 SR 3097]

**INDIVIDUAL SEWAGE TREATMENT SYSTEMS GRANTS PROGRAM**

**7077.0700 PURPOSE.**

The individual sewage treatment systems grants program provides grants to municipalities to assist owners of individual sewage treatment systems to upgrade or replace their



failed systems according to the provisions of Minnesota Statutes, section 116.18, subdivision 3c. The program is jointly administered by the Minnesota Pollution Control Agency and the Minnesota Public Facilities Authority. The program applies to grants awarded before, on, or after July 1, 1990. Parts 7077.0700 to 7077.0765 provide for the agency's responsibilities for the administration of the program.

**Statutory Authority:** *MS s 116.07; 116.18; 116.182*

**History:** *13 SR 1822; 15 SR 288; 17 SR 3097*

#### 7077.0705 DEFINITIONS.

Subpart 1. **Scope.** For the purpose of parts 7077.0700 to 7077.0765, the following terms have the meanings given them.

Subp. 2. **Abatement notice.** "Abatement notice" means an official document issued by the municipality to the owner of an individual sewage treatment system stating that the owner is in violation of the municipality's ordinance that adopts the requirements of chapter 7080. The abatement notice must include a citation to the ordinance alleged to have been violated and a time frame for correcting the alleged violations.

Subp. 2a. **Application cycle.** "Application cycle" means the development of a funding list and the acceptance, review, and approval of written applications for individual sewage treatment system grant funds.

Subp. 3. [Repealed, 15 SR 288]

Subp. 4. [Repealed, 15 SR 288]

Subp. 5. [Repealed, 15 SR 288]

Subp. 5a. [Repealed, 17 SR 3097]

Subp. 6. **Construction cost.** "Construction cost" means the cost of the materials, labor, overhead, and profit necessary for installation, construction, and repair of an individual sewage treatment system established by a contract between a system owner and a system installer.

Subp. 7. [Repealed, 17 SR 3097]

Subp. 8. **Dwelling.** "Dwelling" means any building or place used or intended to be used by human occupants as a single family or two family unit.

Subp. 9. **Failed system.** "Failed system" means an individual sewage treatment system that does not conform to chapter 7080 and has been issued an abatement notice by the municipality.

Subp. 10. **Individual on-site treatment systems program.** "Individual on-site treatment systems program" means the same as "individual sewage treatment systems grants program," which is administered according to parts 7077.0700 to 7077.0765.

Subp. 11. **Inspector.** "Inspector" means a person employed by or under contract to the municipality who inspects individual sewage treatment systems for conformance with the ordinance that adopts the requirements of chapter 7080, and has received agency approval under part 7077.0720.

Subp. 12. **Installer.** "Installer" means a person who constructs or repairs individual sewage treatment systems according to chapter 7080, and has received agency approval under part 7077.0720.

Subp. 12a. [Repealed, 17 SR 3097]

Subp. 13. **Median household income.** "Median household income" means the income data named "median household income" from the most recent decennial census of the United States or the median household income calculated by the municipality and approved by the commissioner for alternative planning areas.

Subp. 14. **Mound system.** "Mound system" means a system for which the soil treatment area is built above the naturally occurring soil surface to overcome limits imposed by proximity to water table or bedrock, or by rapidly or slowly permeable soils.

Subp. 15. [Repealed, 15 SR 288]

Subp. 16. [Repealed, 17 SR 3097]

Subp. 16a. **Planning area.** "Planning area" means an area of contiguous structures with wastewater flows. A planning area is the entire geographic area within a municipality's jurisdiction unless the commissioner approves an alternative area.

Subp. 16b. **Provisional certification.** "Provisional certification" means an apprenticeship status given to persons that have participated in the state individual sewage treatment system certification program and passed the certification examination, but lack the experience required for full certification.

Subp. 17. **Seasonal residence.** "Seasonal residence" means a structure with wastewater flows resided at for less than 182 days of a calendar year by a single family or household. Second homes, vacation residences, and recreation residences are included in this definition.

Subp. 17a. **Site evaluation costs.** "Site evaluation costs" means the expenses associated with a site evaluation, which include the cost of an evaluator/designer, soil borings, percolation tests, and the determination of topographical features.

Subp. 18. [Repealed, 17 SR 3097]

Subp. 18a. **System design costs.** "System design costs" means the expenses charged by an evaluator/designer to complete the necessary calculations for system size, location, materials, and other items necessary to develop a bed, trench, or mound wastewater treatment system design that conforms to chapter 7080.

Subp. 19. **Trench or bed system.** "Trench or bed system" means a wastewater treatment system employing a building sewer, sewage tank, and the soil treatment system consisting of trenches or a seepage bed constructed below the original soil surface.

**Statutory Authority:** *MS s 116.07; 116.18; 116.182*

**History:** *13 SR 1822; 15 SR 288; 16 SR 1800; 17 SR 3097*

#### **7077.0710 ELIGIBILITY.**

Subpart 1. **Eligibility to participate.** Only municipalities, as defined under part 7077.0105, subpart 24, are eligible to participate in the individual sewage treatment systems grants program.

Subp. 2. **Eligibility of individual sewage treatment systems.**

A. For an individual sewage treatment system to be eligible to be included in a municipality's grant application it must meet the following conditions:

- (1) be a failed system;
- (2) have been constructed before January 1, 1977;
- (3) not be serving a seasonal residence;
- (4) not have been constructed with state or federal water pollution control funds; and
- (5) be located within the project planning area.

B. For an individual sewage treatment system to be eligible to receive grant funds it must meet the following conditions:

- (1) replace or correct a system that meets the requirements of part 7077.0710, subpart 2A, identified on a municipality's grant application;
- (2) meet the requirements under Minnesota Statutes, section 116.18, subdivision 3c, paragraph (b);
- (3) have a capacity to treat no more than 5,000 gallons of wastewater per day; and
- (4) meet the applicable design, location, installation and use standards and criteria established under chapter 7080.

Subp. 3. **Eligibility of funded areas.** Individual sewage treatment systems located in geographic areas that were included in planning areas of projects previously funded with state or federal water pollution control funds are not eligible for funding under this program.

Subp. 4. **Eligibility of alternative planning area.** The commissioner shall evaluate any written municipal proposal for a project planning area that is less than the municipality's entire geographic jurisdiction. The commissioner's evaluation of the proposal shall be based on housing density, water quality impact, and public health impact. Separate structures with wastewater flows that are not part of a contiguous area shall not be approved as or part of a planning area.

Subp. 5. **Eligibility to submit a request to be placed on the funding list.** The commissioner shall only accept requests to place projects on the funding list under part 7077.0713 from municipalities that:

A. have authorization from their governing bodies to assume the responsibility for the proposed grant projects and the associated official documents; and

B. have planning areas that have been approved by the commissioner.

**Subp. 6. Eligibility to submit grant application.** The authority shall accept grant applications only from municipalities that have:

A. successfully submitted requests to be placed on the funding list;

B. been classified as fundable on the on-site funding list; and

C. received written notification from the commissioner to submit applications.

**Statutory Authority:** *MS s 116.07; 116.18; 116.182*

**History:** *13 SR 1822; 15 SR 288; 16 SR 1800; 17 SR 3097*

### 7077.0713 FUNDING LIST.

**Subpart 1. Funding list.** A funding list shall be compiled by the commissioner before each grant application period. The list shall be used to determine which municipalities are eligible to apply for individual sewage treatment system grant funds.

**Subp. 2. Requirements for placement on the funding list.** To be placed on the funding list a municipality must meet the requirements of part 7077.0710, subpart 5, and either item A, B, or C, as appropriate.

A. A municipality with a project proposal must submit a written request for the project to be placed on the funding list to the commissioner during a submittal period announced by a notice in the State Register. The notice shall include submittal deadlines and conditions. The placement request must be made on forms provided by the agency and must include:

(1) a resolution of the governing body of the municipality that designates the municipality as the responsible party for the funding list placement request and future grant application, authorizes the filing of the request and future application, and designates the municipal official authorized to sign the request, future application, and related documents;

(2) a map of the municipal jurisdiction or approved alternative planning area;

(3) a preliminary list that identifies the addresses of the individual sewage treatment systems that are suspected to be failed and that meet the eligibility requirements under part 7077.0710, subpart 2;

(4) median household income data or alternative median household income data that includes income data and computation methodology for municipalities and planning areas not included in the decennial census;

(5) the municipality's estimated date of site evaluation, design, and construction for all eligible systems;

(6) a copy of a draft ordinance for adopting the requirements of chapter 7080 and establishing a maintenance plan for the individual sewage treatment systems within the jurisdiction of the municipality; and

(7) the estimated amount of grant funding necessary for eligible site evaluation, system design, and construction costs.

B. A municipality with a project that has been awarded a partial grant under part 7077.0735, subpart 2, shall submit a written request for the remaining grant fund entitlement to the commissioner by the published placement-request submittal deadline described under item A.

C. A municipality eligible for a grant increase amendment under part 7077.0735, subpart 4, item A, shall submit a written request for the grant increase to the commissioner by the published placement-request submittal deadline described under item A.

**Subp. 3. Incomplete requests.** Municipalities that submit placement requests that do not include the information required in subpart 2 or that are not postmarked by the published deadline shall not be placed on the funding list.

**Subp. 4. Priority ranking.** Priority ranking of projects will be based on the median household income approved by the commissioner for the project planning area. Ranking on the funding list shall be determined as described in items A to C:

A. Partial award projects shall be ranked before other grant increase amendments and project proposals. Partial award projects shall be ranked with the lowest median household income receiving the highest priority.

B. Grant increase amendments other than for partial awards shall be ranked after the lowest priority partial award project on the funding list and before project proposals. These grant increases shall be ranked with the lowest median household income receiving the highest priority.

C. Project proposals shall be ranked after the lowest priority grant increase amendment project on the funding list. Project proposals shall be ranked with the lowest median household income receiving the highest priority.

**Subp. 5. Determination of fundable range.** To determine the fundable range on the funding list, the commissioner shall subtract the estimated grant amount or calculated grant increase for each project, in order of decreased priority, from the amount available in the individual sewage treatment system grant fund. The projects classified as fundable are those that have their estimated or calculated project costs subtracted before the grant fund amount is depleted or diminished to an amount too small to complete the majority of the project next in priority on the funding list.

**Subp. 6. Determination of projects eligible to submit applications.** Only municipalities with projects classified as fundable on the funding list are eligible to submit applications.

**Subp. 7. Exclusion from fundable range.** Projects not classified as fundable on the funding list must resubmit the documents required under subpart 2 during a subsequent placement request period.

**Subp. 8. Commissioner notification.** The commissioner shall notify each municipality of the funding list priority for its project.

**Statutory Authority:** *MS s 116.18; 116.182*

**History:** *16 SR 1800; 17 SR 3097*

**7077.0715** [Repealed, 16 SR 1800]

## **7077.0720 APPROVAL OF INDIVIDUAL SEWAGE TREATMENT PERSONNEL.**

**Subpart 1. General requirement.** For the purposes of parts 7077.0700 to 7077.0765, inspectors, evaluator/designers, and installers who inspect, evaluate sites for, design, and install individual sewage treatment systems under those parts must be approved by the commissioner under subpart 2 or 3.

**Subp. 2. First alternate approval criteria.** A person referred to in subpart 1 will be approved by the commissioner if the person is fully certified by the agency through the individual sewage treatment systems certification program administered by the agency in cooperation with the Individual Sewage Treatment Systems Advisory Committee established under part 7080.0100. Approval is automatic upon submittal of certification number. Provisional certification does not fulfill this approval criteria.

**Subp. 3. Second alternate approval criteria.** A person referred to in subpart 1 may apply for approval under this subpart by submitting an application provided by the commissioner upon request. An applicant will be approved by the commissioner if the applicant meets the requirements of items A and B.

A. An applicant must demonstrate knowledge by scoring a minimum of 70 percent correct on an examination based on chapter 7080 and administered by the commissioner.

B. An applicant must document experience by completing the following requirements:

(1) An inspector must submit a list of individual sewage treatment systems inspected by the applicant in the past three years. The inspector must certify that a minimum of 30 systems, or parts of systems, listed conform with the criteria in chapter 7080.

(2) An evaluator/designer must submit a list of individual sewage treatment systems for which the evaluator/designer has conducted site evaluations in the past three years. The evaluator/designer must certify that a minimum of 20 sites for the systems listed were evaluated according to the criteria in chapter 7080.

(3) An evaluator/designer must submit a list of individual sewage treatment systems designed by the applicant in the past three years. The evaluator/designer must certify that a minimum of 20 systems listed were designed according to the criteria in chapter 7080.

(4) An installer must submit a list of individual sewage treatment systems constructed or repaired by the applicant in the past three years. The installer must certify that a minimum of ten systems listed were constructed or repaired according to the criteria in chapter 7080.

Subp. 4. **Notification of approval.** The commissioner will approve or deny an application within 30 days of the receipt of information required under subpart 3. Applicants may reapply at any time.

Subp. 5. **Purpose of agency approval.** Agency approval of inspectors, evaluator/designers, and installers is for grant funding purposes only. This approval does not make the agency responsible for the technical adequacy of the work of inspectors, evaluator/designers, and installers nor does it alter legal liability of this personnel otherwise provided by law.

**Statutory Authority:** *MS s 116.07; 116.18; 116.182*

**History:** *13 SR 1822; 15 SR 288; 16 SR 1800; 17 SR 3097*

### 7077.0725 GRANT APPLICATION.

Subpart 1. **Eligibility.** No municipality shall submit an individual sewage treatment system grant application unless it meets the eligibility requirements of part 7077.0710, subpart 6. The written notification from the commissioner shall include application submittal conditions and deadlines. No municipality is eligible for a grant unless a complete grant application has been submitted to the authority and has been certified by the commissioner. A complete application includes all the documents required under subpart 2.

Subp. 2. **Application requirements.** The municipality must apply for a grant on a form provided by the commissioner or the authority. The municipality must submit to the authority the following information with the application:

A. the wastewater treatment plan adopted by the municipality's governing body that identifies wastewater treatment needs, proposes long-term solutions for a planning area, and includes:

(1) a planning area survey prepared by an inspector that identifies all systems in the planning area as failed systems or systems in compliance with chapter 7080;

(2) site evaluations, including soil investigations, soil borings, and percolation tests for the failed systems identified in subitem (1) prepared by an evaluator/designer and a determination if it is feasible to replace or upgrade the failed systems on site made by an evaluator/designer;

(3) a summary of the proposed systems that includes sizing, location, and design, prepared by an evaluator/designer using data from the site evaluations prepared under subitem (2);

(4) a list of the failed individual sewage treatment systems, including addresses and names of property owners, that meet the eligibility requirements under part 7077.0710, subpart 2, item A, and copies of the abatement notices;

(5) an analysis of the overall wastewater treatment needs in the planning area including a proposal for addressing the remaining wastewater treatment needs in the planning area not covered in subitem (4), including specific actions to be taken and a proposed timetable for addressing the wastewater treatment needs;

(6) documentation of approval of the project inspector, evaluator/designers, and installer under part 7077.0720; and

(7) a certification of adoption of the wastewater treatment plan from the municipality's governing body;

B. a copy of the enacted ordinance that adopts the requirements of chapter 7080, individual sewage treatment system standards, and establishes a maintenance plan for the individual sewage treatment systems in the municipal jurisdiction and certification that the ordinance is being enforced;

C. signed statements of compliance with the eligibility requirements under part 7077.0710, subpart 2, items B to E, from the individual system owners;

D. the amount of grant funding requested for site evaluation, system design, and construction and a certification stating that only eligible costs have been requested;

E. the municipality's estimated date for the completion of all construction and final request for payment for the grant eligible systems;

F. a statement from the municipality that it has an inspector on staff or under contract for services; and

G. an assurance from the municipality that states that all property owners who plan to be connected to an individual sewage treatment system that serves two or more structures with wastewater flows agree to be part of the system, to participate in the construction projects, and to participate in and finance future operation, maintenance, and replacement of the system.

**Subp. 3. Other information.** After the application is received, the municipality must submit any other information requested by the commissioner necessary to clarify the application.

**Subp. 4. Application closing date.** The application deadline shall not be less than 150 days after the placement request submittal deadline identified under part 7077.0713, subpart 2, item A. The commissioner shall send written notification of the application deadline to municipalities that are eligible to submit grant applications. The application must be postmarked by the specified application deadline.

**Subp. 5. Incomplete applications.** Municipalities that submit applications postmarked by the application deadline that require additional information to be considered complete under subpart 2, have 45 days from the application deadline to submit the information needed to make the application approvable. If an application is not completed within this 45 days, the municipality is ineligible for funding. Ineligible municipalities must wait to reapply until the funding list placement requirements have been met and the project has been classified as fundable under part 7077.0713 during a subsequent application cycle.

**Subp. 6. Three copies.** Individual sewage treatment system grant application forms and attachments must be submitted in triplicate to the authority. At least one set of forms and attachments must contain original signatures.

**Subp. 7. Application approval.** The commissioner shall review and approve grant applications from municipalities that meet the requirements under this part.

**Statutory Authority:** *MS s 116.07; 116.18; 116.182*

**History:** *13 SR 1822; 15 SR 288; 16 SR 1800; 17 SR 3097*

## **7077.0730 ELIGIBLE COSTS.**

**Subpart 1. Eligible costs.** Only the actual site evaluation, system design, and construction costs of upgrading or replacing failed individual sewage treatment systems that have been identified under part 7077.0725, subpart 2, item A, subitem (4), are eligible. Upgraded or replacement systems must be a trench, bed, or mound design and meet the requirements under part 7077.0710, subpart 2, item B, to be eligible for grant participation. Only the costs associated with one system shall be eligible for each structure with wastewater flows.

**Subp. 2. Ineligible costs.** All inspection, administrative, land, and easement costs are ineligible for grant assistance. Planning and engineering costs, other than for site evaluation and system design, are also ineligible for grant assistance.

**Subp. 3. [Repealed. 16 SR 1800]**

**Subp. 4. Costs incurred before grant award.** An owner may incur costs before the award of the grant and retain eligibility for reimbursement of eligible costs if the following conditions are met:

A. the owner's system is specifically identified on the wastewater treatment plan as required under part 7077.0725, subpart 2, item A, that was approved by the municipality and the commissioner before construction costs are incurred; and

B. all work has been done by personnel approved under part 7077.0720, and according to chapter 7080 and the approved wastewater treatment plan.

**Statutory Authority:** *MS s 116.07; 116.18; 116.182*

**History:** *13 SR 1822; 15 SR 288; 16 SR 1800; 17 SR 3097*

**7077.0735 AMOUNT OF GRANT AWARD.**

Subpart 1. **Grant amount.** The amount of the grant to be awarded will be the sum of items A and B:

A. 50 percent of the construction costs eligible under part 7077.0730 up to a maximum amount of \$2,500 per structure with wastewater flows for a trench or bed system and \$3,750 per structure with wastewater flows for a mound system; and

B. 50 percent of the site evaluation and system design costs eligible under part 7077.0730 up to a maximum amount of \$150 per structure with wastewater flows.

Subp. 2. **Partial awards.** A municipality that receives only a part of the grant to which it is entitled, due to the limitation of funding, will be entitled to receive a grant amendment in the next year or years, if individual sewage treatment systems grant funding is available, until the full amount of the grant is awarded. If a municipality accepts a partial grant it must identify which project elements will be completed with the grant as part of the grant agreement.

Subp. 3. **Funds not allocated.** Individual sewage treatment system grant funds that are not allocated for a fundable project, that are refused by a municipality, or that are denied award by the commissioner or authority shall remain in the grant fund for distribution during the next application cycle.

Subp. 4. **Amendments.** Grant amendments shall be made as described in items A and B.

A. Grant increase amendments shall only be made to fulfill the original grant entitlement for municipalities that receive partial awards as described under subpart 2, to reimburse the eligible cost for failed individual sewage treatment systems in a project planning area that were not identified on the funding list placement request, and to reimburse site evaluation and system design costs eligible under subpart 1, item B, for municipalities that received individual sewage treatment system grant awards before July 1, 1990. Grant increases shall be made during an application cycle when funds are available and the grant increase has been classified as fundable on the corresponding funding list.

B. Grant decrease amendments shall be made upon project completion to reduce the grant to correspond with the amount of incurred, grant eligible costs.

**Statutory Authority:** *MS s 116.07; 116.18; 116.182*

**History:** *13 SR 1822; 15 SR 288; 16 SR 1800; 17 SR 3097*

**7077.0740** [Repealed, 16 SR 1800]

**7077.0745 CERTIFICATION OF AWARD.**

Subpart 1. **Certification to authority.** The commissioner will certify each individual on-site wastewater treatment system grant application approved under part 7077.0725, subpart 7, and grant amendment approved under part 7077.0735, subpart 4, to the authority for award. Grant eligible costs, award amounts, and eligible budget periods will be determined at the time of certification.

Subp. 2. [Repealed, 16 SR 1800]

Subp. 3. [Repealed, 16 SR 1800]

**Statutory Authority:** *MS s 116.07; 116.18*

**History:** *13 SR 1822; 15 SR 288; 16 SR 1800*

**7077.0750 PAYMENT CONDITIONS.**

Payment of the grant is contingent on complying with the following conditions:

A. The upgrade or replacement to the existing system must be designed by an evaluator/designer using data from an evaluator/designer.

B. The upgrade or replacement to the existing system must be constructed by an installer.

C. The upgrade or replacement to the existing system must be inspected and approved by the inspector.

D. The upgrade or replacement to the existing system must meet the standards under chapter 7080 and must be completed in accordance with the approved wastewater treatment plan.

E. Costs on the payment request have been incurred and are eligible under part 7077.0730.

**Statutory Authority:** *MS s 116.07; 116.18; 116.182*

**History:** *13 SR 1822; 15 SR 288; 16 SR 1800; 17 SR 3097*

#### **7077.0755 PAYMENTS.**

Subpart 1. **Request for payments.** A municipality must submit payment requests to the authority on a form provided by the authority.

Subp. 2. **Schedule of payments.** Payments may be requested monthly as construction on individual sewage treatment systems is completed and approved by the inspector.

Subp. 3. **Documentation.** Before payment of any part of the grant is made, the municipality must certify to the agency that the payment conditions under part 7077.0750 have been fulfilled and invoices that document incurred site evaluation, system design, and construction costs for each upgraded or replaced individual sewage treatment system will be kept on file for state audit purposes.

Subp. 4. **Certification of payment.** Within 30 days of agency receipt of payment request, the commissioner will determine whether payment will be made. If the commissioner determines that payment will not be made, the commissioner will advise the municipality of the deficiencies in the request. If the commissioner determines that payment conditions have been met, the commissioner will certify to the authority that payment should be made.

**Statutory Authority:** *MS s 116.07; 116.18; 116.182*

**History:** *13 SR 1822; 15 SR 288; 16 SR 1800; 17 SR 3097*

#### **7077.0760 TERMINATION OF GRANT.**

Failure of the municipality to comply with the grant agreement or parts 7077.0700 to 7077.0765 constitutes grounds for the commissioner to recommend that the authority terminate the grant.

**Statutory Authority:** *MS s 116.07; 116.18*

**History:** *13 SR 1822; 15 SR 288; 16 SR 1800*

#### **7077.0765 SUBSEQUENT GRANTS.**

A municipality awarded a grant from the individual on-site wastewater treatment systems grants program is not eligible for additional funding under the program established by the 1972 Federal Water Pollution Control Act amendments or the state independent grants program, including the individual on-site wastewater treatment systems grants program, unless the municipality is applying for a project that serves a planning area that was not included, under part 7077.0725, subpart 2, item A, in the awarded grant.

**Statutory Authority:** *MS s 116.07; 116.18*

**History:** *13 SR 1822; 15 SR 288; 16 SR 1800*

### **PROCEDURAL REQUIREMENTS**

#### **7077.2000 DISPUTES.**

A municipality adversely affected by an action of agency staff may request a review of the action. A request for review of the action must be submitted in writing to the commissioner by the municipality within 45 days of the date of notification of a final decision made by agency staff.

**Statutory Authority:** *MS s 116.07*

**History:** *15 SR 288*

#### **7077.2005 PROCEDURAL RULES AND APPEALS.**

A request for a hearing, an appeal, or other procedural matter not specifically provided for in this chapter is governed by the agency rules of procedure, the rules of the Office of Administrative Hearings, and other applicable laws.

**Statutory Authority:** *MS s 116.07*

**History:** *15 SR 288*



# MINNESOTA RULES 1995

## 7077.2010 WASTEWATER TREATMENT ASSISTANCE

1202

### 7077.2010 VARIANCES.

A person may apply for a variance from any requirement of parts in this chapter. The variance shall be applied for and acted upon by the agency according to Minnesota Statutes, section 116.07, subdivision 5, and other applicable statutes and rules.

**Statutory Authority:** *MS s 116.07*

**History:** *15 SR 288*