

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

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**7075.0100 PURPOSE.**

This chapter provides for the administration of the federal construction grant program, the independent state construction grant program, the state matching construction grant program, the state loan program for the construction of municipal disposal systems, and the state financial assistance program for combined sewer overflow abatement.

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**Statutory Authority:** *MS s 115.03 subd 1 cl (c); 116.16; 116.162*

**History:** *8 SR 694; 10 SR 278; 10 SR 1758*

### 7075.0200 DEFINITIONS.

**Subpart 1. Scope.** For the purpose of this chapter, the following terms have the meanings given them.

**Subp. 2. Statutorily defined terms.** The terms "person," "sewage," "industrial wastes," "other wastes," "treatment works," "sewer system," "disposal system," "waters of the state," "pollution control fund," "municipality," "commissioner," "agency," "pollution of water," "eligible cost," "wastewater treatment facility," as well as any other pertinent terms for which definitions are given in Minnesota Statutes, chapters 115 and 116 have the meanings ascribed to them therein.

**Subp. 3. Act.** "Act" means the Federal Water Pollution Control Act, United States Code, title 33, section 1251 et seq.

**Subp. 4. Adequate errors and omissions insurance.** "Adequate errors and omissions insurance" means a policy of insurance which provides the minimum amount of coverage for the corresponding estimated project construction cost as determined from the following table, which is maintained for a minimum of two years after acceptance of the project by the grantee.

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

If an engineer has more than one project, the policy must provide for the minimum coverage applicable to the highest estimated project construction cost. Requests for variances from the requirements of this part are governed by part 7075.5000.

**Subp. 5. Administrator.** "Administrator" means the Administrator of the United States Environmental Protection Agency.

**Subp. 6. Adverse impact.** "Adverse impact" means the violation of any water quality standard or an objectionable growth of weeds, algae, or rough fish or any deleterious effect on the physical, chemical, or biological condition of the receiving water that lessens the present or long-term uses of the receiving water.

**Subp. 7. Construction loan.** "Construction loan" means a loan for a Step 3 project.

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

**Subp. 9. Facilities plan.** "Facilities plan" includes the information required by Code of Federal Regulations, title 40, section 35.2030, and other information as is necessary to determine whether the project is consistent with good engineering practice and capable of complying with applicable pollution control rules and standards.

**Subp. 10. 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. 11. 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. 12. **Need.** "Need" means a determination that a new or upgraded disposal system is currently required, or will be required within a five-year period to comply with state water pollution control rules; provided, the situation does not exist primarily due to inadequate operation and maintenance or primarily due to negligence on the part of any person.

Subp. 13. **Major contributing industry.** A "major contributing industry" means an industrial user of a treatment facility that:

A. has a rated flow of 50,000 gallons or more per work day where the rated flow is the daily design flow multiplied by 24 and divided by the actual hours of discharge in a day;

B. has a rated flow greater than five percent of the total design flow to the treatment works;

C. has a total organic load of greater than five percent of the total organic load to the treatment works;

D. has in its waste before pretreatment a toxic pollutant in excess of what may be discharged to waters of the state; or

E. is found by the agency in connection with the issuance of an NPDES/SDS permit to the municipality, either singly or in combination with other contributing industries, to interfere with the treatment plant's ability to meet effluent limitations, interfere with digester operation or biological unit process operation, impact the area required for sludge disposal, or increase sizing of the facility by five percent or more.

Subp. 14. **NPDES/SDS permit.** "NPDES/SDS permit" means a National Pollutant Discharge Elimination System and State Disposal System permit issued by the agency that authorizes under certain conditions the discharge of pollutants to waters of the state and subsurface disposal or on-land disposal and the operation of a disposal system.

Subp. 15. **90 percent compliance.** "90 percent compliance" means compliance with an NPDES/SDS permit limitation or condition related to effluent quality at a frequency of at least 90 percent of the time during a one-year period computed on the basis of the time interval appropriate to the limitation or condition. Periods of noncompliance caused by inadequate operation and maintenance or negligence on the part of a person are not included in the percentage computation for the purposes of this definition.

Subp. 16. **Outstanding resource value water.** "Outstanding resource value water" means those waters defined in part 7050.0180, subpart 2.

Subp. 17. **Planning loan.** "Planning loan" means a loan for Step 1 or Step 2 projects.

Subp. 18. **Plans and specifications.** "Plans and specifications" includes documents that contain the requirements under which a bidder submits a bid for performing the work and the contractual requirements and detailed requirements. The documents that comprise the plans and specifications must conform with generally accepted engineering practices, applicable state statutes and rules, and applicable requirements of Code of Federal Regulations, title 40, parts 33 and 35.

Subp. 19. **Primary treatment facilities.** "Primary treatment facilities" means facilities designed to provide a level of treatment lower than that provided by secondary treatment facilities.

Subp. 20. **Secondary treatment facilities.** "Secondary treatment facilities" includes facilities designed to provide effective sedimentation, biochemical oxidation, and disinfection, or the equivalent, consistent with requirements of part 7050.0211, subpart 1. Facilities discharging to limited resource value waters (Class 7 waters) and assigned effluent limitations based on part 7050.0214, subpart 1 or 2, and that do not have a phosphorus or toxic substances effluent limitation are secondary treatment facilities for the purpose of this chapter.

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Subp. 21. **Step 1.** "Step 1" means the preparation of all necessary preliminary engineering studies for the project.

Subp. 22. **Step 2.** "Step 2" means the preparation of construction plans and specifications for the project.

Subp. 23. **Step 3.** "Step 3" means the construction of the project.

Subp. 24. **Step 2+3.** "Step 2+3" means the preparation of construction plans and specifications for and construction of the project.

Subp. 25. **Tertiary treatment facilities.** "Tertiary treatment facilities" includes facilities specifically designed to achieve effluent limitations based on part 7050.0211, subpart 1, for phosphorus or toxic substances and facilities designed to provide a level of treatment higher than that provided by secondary treatment facilities.

Subp. 26. **Treatment agreement.** A "treatment agreement" is an agreement between a municipality and a major contributing industry that includes the following:

A. the variations in daily flow and the monthly average and daily maximum quantity of compatible and incompatible pollutants to be discharged to the treatment facility;

B. the intended period of use of the treatment facility;

C. signatures by the major contributing industry and the owner of the treatment system accepting the wastewater;

D. a requirement that the quantities to be discharged to the treatment system will be in accordance with applicable standards and requirements; and

E. enforceability in a court of law by the municipality.

Subp. 27. **Wastewater.** "Wastewater" means sewage, industrial waste, and other wastes collected for treatment in a disposal system.

Subp. 28. **Other terms and abbreviations.** Other terms and abbreviations used herein which are not specifically defined by law shall be construed in conformance with the context and professional usage.

**Statutory Authority:** *MS s 115.03 subd 1 para (c); 116.16*

**History:** *8 SR 694; 10 SR 278; L 1987 c 186 s 15*

**7075.0300** [Repealed by amendment, 8 SR 694]

### **7075.0400 TYPES OF PROGRAMS.**

Under this chapter and Minnesota Statutes, section 116.16 et seq., the agency may disburse funds from the pollution control fund for the following:

A. state matching grants for projects tendered a federal grant under the act;

B. grants to reduce or eliminate the local contribution of a municipality meeting the criteria in part 7075.0425;

C. independent state grants for planning and construction of municipal disposal systems;

D. loans for the construction of municipal disposal systems; and

E. financial assistance for the abatement of combined sewer overflow.

**Statutory Authority:** *MS s 115.03 subd 1 cl (c); 116.16; 116.162*

**History:** *8 SR 694; 10 SR 278; 10 SR 1758*

### **CONSTRUCTION GRANTS PROGRAM**

#### **7075.0401 SUMMARY OF CONSTRUCTION GRANTS PROGRAMS.**

The following provisions apply to the municipal construction grant programs:

A. Federal construction grant funds and state matching construction grant funds are available for Step 2+3 and Step 3 projects and advances of allowance for Steps 1 and 2.

B. Independent state construction grant funds are available for Steps 1, 2, 3, and 2+3 projects.

C. Except as provided in part 7075.0409, subpart 4, items C and D, construction grants are awarded to municipalities on a priority basis. Municipalities with the highest priorities as determined by a point system are awarded construction grants first.

D. Priorities are determined by awarding points for various disposal system projects based on the waters affected, the population affected, the type of project proposed, and extra points for qualifying projects.

E. The agency develops and maintains a municipal needs list that ranks in order of priority all municipalities within the construction grants programs for which a need exists.

F. The agency prepares a municipal project list that lists in order of priority from the municipal needs list, the municipalities that are eligible to apply for construction grants for their projects from funds allotted to the state for the current fiscal year by the federal government or appropriated into the fund for the current fiscal year.

G. A municipality on the municipal project list must apply for a construction grant before a grant will be awarded.

H. State financial assistance is available for design and construction of combined sewer overflow abatement projects. This assistance is awarded on a pro rata basis to qualifying municipalities separately from the priority ranking process for other construction grants.

**Statutory Authority:** *MS s 115.03 subd 1 cl (c); 116.16; 116.162*

**History:** *8 SR 694; 10 SR 278; 10 SR 1758*

#### 7075.0402 MUNICIPAL NEEDS LIST.

**Subpart 1. Requirement.** The agency shall develop and maintain a municipal needs list of municipalities that have a need for a new or upgraded disposal system.

**Subp. 2. Points and listing order.** A municipality on the municipal needs list shall be awarded points under the criteria established in this chapter. The municipalities shall be listed on the municipal needs list in descending order according to the number of points awarded to each.

**Subp. 3. Petition for inclusion on list.** A municipality may petition the agency for inclusion on the municipal needs list. A municipality petitioning the agency for inclusion on the list shall submit the following information:

A. If the municipality is sewered, the municipality shall submit data regarding concentration of pollutants in existing discharge; volume of discharge; and waters of the state presently or potentially impacted by the discharge.

B. If the municipality is unsewered, the municipality shall submit data regarding type of soil in unsewered area; depth to seasonal high water table; size of all lots in the area; and age and type of existing system.

**Subp. 4. Review of petitions; additions to list.** The agency shall review each petition and add to the municipal needs list each municipality for which a need has been found to exist. If the agency determines that a need does not exist, the municipality shall not be added to the list and the agency shall notify the municipality of the reasons for the determination.

**Subp. 5. Removal from needs list.** Upon approval of a facilities plan, the agency may determine that the municipality does not have a need and remove the municipality and the project from the municipal needs list.

**Statutory Authority:** *MS s 115.03 subd 1 para (c); 116.16*

**History:** *8 SR 694; 10 SR 278*

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## 7075.0403 PRIORITY POINTS FOR WATERS AFFECTED.

Subpart 1. **Water use and point ratings.** A municipality shall be awarded priority points based on the water use of the receiving water of the discharge according to the following:

	Water Use*	Point Rating
Class 1	Domestic consumption:	
	Class 1A waters	70
	Class 1B waters	65
	Class 1C waters	60
Class 2	Class 1D waters	55
	Fisheries and recreation:	
	Class 2A waters	60
	Class 2B waters	50
Class 7	Class 2C waters	40
	Limited Resource Value Waters	35

\* The water uses are more specifically defined in parts 7050.0200 and 7050.0220 and the water use of a specific water of the state is the water use established by parts 7050.0400 to 7050.0470.

Subp. 2. **Receiving water with more than one designated water use.** If a municipality discharges to a receiving water with more than one designated water use, the municipality shall be awarded the points for the designated water use with the greatest number of points.

Subp. 3. **Adverse impact on downstream water.** If a municipal discharge has an adverse impact on a downstream water with a designated water use receiving more points than the receiving water, the municipality shall be awarded the priority points for the downstream water.

**Statutory Authority:** *MS s 115.03 subd 1 para (c); 116.16*

**History:** *8 SR 694; 10 SR 278*

## 7075.0404 PRIORITY POINTS FOR POPULATION SERVED.

A municipality shall be awarded priority points based on the population of the municipality served by the project. The priority points for population served are five times the logarithm to the base 10 ( $\log_{10}$ ) of the population determined by the latest official census. The table below gives examples of the priority points assigned for various populations:

Population	Log ( <sub>10</sub> )	Priority Points Assigned
100	2	10.0
1,000	3	15.0
10,000	4	20.0
100,000	5	25.0
1,000,000	6	30.0

**Statutory Authority:** *MS s 115.03 subd 1; 116.16*

**History:** *8 SR 694*

## 7075.0405 PRIORITY POINTS FOR TYPE OF PROJECT.

Subpart 1. **Table of priority points by type of project.** A municipality shall be awarded priority points based on the type of project to be constructed according to the following:

Type of Project	Priority Points
Tertiary treatment facilities:	
A. major tertiary treatment facilities	160
B. dechlorination facilities	120
C. ancillary addition to existing tertiary treatment facilities	80

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### Secondary treatment facilities:

D. major secondary treatment facilities	150
E. dechlorination facilities	110
F. ancillary addition to existing secondary treatment facilities	75

### Collection systems or collector sewers:

G. collection system or collector sewer	10
H. improvement of collection system or collector sewer reliability	10

### Combined sewer overflow:

I. control of combined sewer overflow	150
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#### Subp. 2. Description of project types. Project types are described as follows:

A. Major treatment facilities are new facilities or additions to existing facilities which improve effluent quality in order that a municipality may achieve compliance with its NPDES/SDS permit conditions. Major treatment facilities include major interceptor sewers and sewer system rehabilitation. Land application systems and stabilization ponds that are proposed as an alternative to tertiary and secondary treatment facilities that discharge to waters of the state are considered tertiary treatment and secondary treatment for purposes of project priority. Whether a land application system or stabilization pond is a tertiary or secondary treatment system is determined as based on the effluent limitations applicable to discharges to the receiving water. Subsurface disposal systems, including septic tanks, designed to treat an average daily flow of not more than 1,200 gallons and the drainfield portion and one central septic tank to treat an average daily flow in excess of 1,200 gallons are considered secondary treatment for purposes of project priority.

B. A major interceptor sewer is a sewer, including related lift stations, that intercepts wastewater from the final point in a collector sewer of a municipality and accomplishes one of the following:

- (1) transports the wastewater directly to a wastewater treatment facility;
- (2) transports the wastewater directly to another major interceptor sewer; or
- (3) transports the wastewater directly to the collector sewer of another municipality.

A sewer is a collector sewer and not a major interceptor sewer if the average design flow of the sewer increases by more than ten percent from wastewater connections to the sewer between its origin and its termination or if it has physical connections closer to each other than 1,000 feet. Infiltration and inflow directly to the sewer and flow from other major interceptor sewers is not included in determining whether the flow has increased by more than ten percent.

C. A sewer system rehabilitation project is a project that repairs or replaces an existing collector or interceptor sewer in order to eliminate bypasses caused by insufficient hydraulic capacity in existing separate sanitary sewers by transporting infiltration and inflow to a wastewater treatment facility or to reduce the hydraulic capacity of the wastewater treatment plant and includes flow equalization systems, relief sewers, and relief capacity sewers.

D. A flow equalization system is a containment system such as a pond, basin, or tank designed to temporarily hold wet weather flow until the flow can be transported to the wastewater treatment plant.

E. A relief sewer is a sewer primarily designed to eliminate bypassing caused by insufficient hydraulic capacity in separate sewer systems by transporting infiltration or inflow to adequately sized sewers or a wastewater treatment

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facility for proper treatment. A sewer is a relief capacity sewer and not a relief sewer if its design flow includes more than five percent wastewater or if it has physical connections closer to each other than 1,000 feet. Storm sewer separation is not a relief sewer.

F. A relief capacity sewer is a new sewer designed to handle the normal flow of wastewater and to eliminate bypasses caused by insufficient hydraulic capacity in existing sewers by transporting infiltration and inflow to adequately sized sewers or to a wastewater treatment plant. A relief capacity sewer must be designed to provide future capacity for a minimum of 40 years.

G. A collection system or collector sewer is a sanitary sewer, including innovative and alternative sewers carrying raw or partially treated wastewater and providing collection system reliability such as alternative power or dual pumps, that is not a major interceptor sewer, a relief sewer, or relief capacity sewer. For treatment works including subsurface disposal systems designed to treat an average daily flow in excess of 1,200 gallons, a collection system includes devices such as grinder pumps and septic tanks that will partly treat the wastewater, as well as septic tank effluent pumps and small diameter sewers that will pump and convey the partially treated waste.

H. Dechlorination facilities are facilities that remove chlorine from the effluent. When a municipality receives a grant to construct facilities receiving the points assigned in subpart 1, item A or D, the facilities described in this item shall be funded concurrently.

I. An ancillary addition to existing tertiary or secondary treatment facilities is an addition that is not a major addition and is not dechlorination facilities. Examples are administrative support facilities or sludge handling facilities to enable a municipality to comply with state disposal system permit conditions controlling sludge application to land or sludge disposal. When a municipality receives a grant to construct facilities receiving the points assigned in subpart 1, item A or D, the facilities described in this item shall be funded concurrently.

**Subp. 3. Special restrictions for sewer system projects.** Special restrictions for sewer system projects are as follows:

A. In order for a sewer system rehabilitation project to be eligible for priority points under part 7075.0405, subpart 1, item A or D, the municipality must not have obtained a construction grant for treatment plant construction since February 11, 1974, and sewer system rehabilitation must be justified by an infiltration/inflow analysis and sewer system evaluation survey that complies with the requirements of Code of Federal Regulations, title 40, section 35.2120.

B. A relief capacity sewer is not eligible for priority points under part 7075.0405, subpart 1, item A or D unless the municipality has not obtained a construction grant since at least February 11, 1974, and a relief capacity sewer is justified by an infiltration/inflow analysis and sewer system evaluation survey that complies with the requirements of Code of Federal Regulations, title 40, section 35.2120.

A relief capacity sewer that qualifies as a major interceptor sewer is considered major treatment facilities and the municipality proposing the project shall be awarded the priority points under part 7075.0405, subpart 1, item A or D for the entire cost of the project.

A relief capacity sewer that is not a major interceptor sewer must be divided into two components:

(1) the portion of the sewer for domestic, commercial, and industrial wastewater and normal infiltration and inflow and generally accepted peaking factors; and

(2) the portion of the sewer necessary to convey excess infiltration and inflow.

The component in subitem (2) is considered major treatment facilities and



awarded the priority points under part 7075.0405, subpart 1, item A or D and the component in subitem (1) is considered a collector and awarded the priority points under part 7075.0405, subpart 1, item G.

That percentage of total sewer flow at design condition that is attributable to the component in subitem (2), multiplied by the cost of the relief capacity sewer, is fundable as a major addition. That percentage of total sewer flow at design condition that is attributable to the component in subitem (1), multiplied by the cost of the relief capacity sewer, is fundable as a collector sewer.

C. A municipality proposing to undertake a sewer system rehabilitation project or to construct a relief capacity sewer that does not meet the criteria specified in items A and B must be listed as a separate project on the municipal needs list and awarded the priority points credited to a collection system or collector sewer under part 7075.0405, subpart 1, item G or H.

D. A project for the control of combined sewer overflow is not eligible for priority points under part 7075.0405, subpart 1, item I unless the project is necessary to meet requirements of the municipality's NPDES/SDS permit and the act. In addition, after October 1, 1984, combined sewer overflow projects are eligible for funding and for priority points under part 7075.0405, subpart 1, item I only if the governor, by July 1 prior to the federal fiscal year in which funding is sought, has set aside a portion of the state's allotment or appropriation for correction of combined sewer overflows. This set aside must not exceed 20 percent of the state's allotment for each fiscal year. In no event after October 1, 1984, may funding for combined sewer overflow projects exceed the amount set aside by the governor for these projects.

Subp. 4. **Temporary improvements.** If a municipality makes improvements to its existing disposal system that are temporary in nature for the purpose of maximizing effluent quality or keeping its system operational while the municipality is awaiting a grant, the municipality shall receive the same priority points for its project as it would have received without the temporary improvements.

**Statutory Authority:** *MS s 115.03 subd 1 para (c); 116.16*

**History:** *8 SR 694; 10 SR 278*

#### **7075.0406 EXTRA POINTS.**

In addition to the priority points a municipality is entitled to for its project, the following extra points shall also be awarded to a qualifying municipality:

A. A municipality that proposes a project that will eliminate an existing public health hazard assessed by the Minnesota Department of Health in a health advisory or commissioner's order shall be awarded 40 extra points. A municipality requesting the award of 40 extra points under this provision shall submit the following information to the agency and to the Minnesota Department of Health:

- (1) information on geologic and soil conditions including soil types, permeabilities, and presence or absence of confining units;
- (2) groundwater flow patterns in the area of the facility or proposed facility;
- (3) an assessment of the extent and magnitude of the contaminant plume;
- (4) an identification of water users and assessment of the amount of water appropriations in the area of the facility or proposed facility;
- (5) flow rates and flow patterns of surface waters;
- (6) information on well construction for wells in the area of the facility or proposed facility, particularly wells that have been or will be impacted;
- (7) a description of the facility's construction, operation, and performance if there is an existing facility, with an explanation of why the facility is creating a public health hazard;

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(8) an identification and assessment of the suspected route of human exposure and the population exposed; and

(9) a description of how the proposed improvements will mitigate or eliminate the public health hazard.

B. A qualifying municipality shall be awarded extra points under one of the provisions below for its existing level of treatment:

(1) A municipality that presently has a central sanitary sewer system serving 50 percent or more of the population but provides no treatment prior to discharge, or a municipality which collects an average daily flow exceeding one million gallons through a system without combined sewers and which has bypassed sewage more than 40 percent of the time over a period of at least two years while its plant is operating at full capacity, shall be awarded 40 extra points.

(2) A municipality with no central sanitary sewer system where more than 50 percent of the existing septic systems discharge raw or partially treated sewage directly to the ground surface shall be awarded 30 extra points.

(3) A municipality that presently has a central sanitary sewer system serving 50 percent or more of the population and whose present facilities are designed for only primary treatment shall be awarded 20 extra points.

(4) A municipality that discharges untreated sewage as a result of combined sewer overflows shall be awarded 20 extra points.

C. A municipality that proposes a project that is an integral part of a watershed pollution abatement plan shall be awarded 15 extra points. A watershed pollution abatement plan shall include the following:

(1) an in depth description of the physical environment (geology, soils, topography, and land cover), land use and development in the watershed, as well as the planned future land use and development;

(2) an inventory and in depth description of the watershed's hydrologic system, including climatic conditions (precipitation), lakes, wetlands, streams, groundwater, drainage, and conveyance systems;

(3) information on the existing and potential water quality problems in the watershed, including both point and nonpoint sources of pollution;

(4) objectives and policies, including management plans for water quality and natural resource protection;

(5) a description of the hydrologic and water quality conditions that will be sought, including a description of the opportunities for improvement;

(6) a statement on conflicts between the watershed pollution abatement plan and existing plans of local government units; and

(7) a plan for implementation, consisting of governmental work agreements and schedules for implementing corrective actions.

A municipality is not entitled to the 15 extra points under this provision unless the agency received the plan for review by April 15, and it is in approvable condition by July 1, prior to the beginning of the fiscal year for which funding is sought.

D. A municipality that discharges to or has an adverse impact upon an outstanding resource value water shall be awarded ten extra points.

E. A municipality proposing to undertake a project that will result in the elimination of a discharge to a game fish lake or the elimination of a discharge that has an adverse impact on a game fish lake shall be awarded ten extra points. A game fish lake is a lake managed for propagation of game fish species and used for fisheries and recreation. There may be occasional but not regular winter kill in a game fish lake.

F. An applicant who includes planned participation in a sanitary district or other multi-municipal disposal system as part of the project shall be awarded ten extra points.

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G. A municipality listed on the municipal needs list on January 1, 1985, shall be awarded 40 extra points.

H. A municipality which does not qualify for the points awarded in item G and which is achieving less than 90 percent compliance with its NPDES/SDS permit conditions shall be awarded 20 extra points.

**Statutory Authority:** *MS s 115.03 subd 1 para (c); 116.16*

**History:** *8 SR 694; 10 SR 278*

## 7075.0407 TOTAL POINTS.

The total points to be awarded a municipality for placement on the municipal needs list is the sum of the priority points awarded under one of the provisions of part 7075.0600, the priority points awarded under part 7075.0404, the priority points awarded under one of the provisions of part 7075.0405, and extra points awarded under one or more of the provisions of part 7075.0406.

**Statutory Authority:** *MS s 115.03 subd 1; 116.16*

**History:** *8 SR 694*

## 7075.0408 RESOLUTION OF EQUAL POINT RATINGS.

If in the determination of the order of priority on the municipal needs list, two or more municipalities have the same total number of points, the municipality with the highest priority points under part 7075.0403 for water use is ranked higher. If two or more municipalities have the same total number of points and the same priority points under part 7075.0403 for water use, the municipalities are ranked based on population under part 7075.0404.

**Statutory Authority:** *MS s 115.03 subd 1; 116.16*

**History:** *8 SR 694*

## 7075.0409 MUNICIPAL PROJECT LIST.

**Subpart 1. Adoption of municipal project list.** The agency shall adopt a municipal project list each fiscal year which shall list in order of priority projects for which federal grant funds will be requested from current allotments and for which independent state grants will be awarded from current appropriations. The municipal project list shall also contain those projects for which state financial assistance will be available for combined sewer overflow abatement projects. The municipal project list shall also list any nonproject uses of the state's allotment of federal grant funds and of the appropriation of state grant funds, including but not limited to, training grants and costs of administration.

**Subp. 2. Requirements for placement on list.** A municipality that requests project placement on the municipal project list shall meet the following requirements:

A. If the grant sought is a Step 1, 2, 2+3, or 3 grant, the municipality must be listed on the municipal needs list.

B. If the grant sought is a Step 2, 2+3, or 3 grant, the municipality shall submit by December 1 prior to the beginning of the fiscal year for which the municipal project list is prepared:

(1) a facilities plan in conformance with part 7075.0200, subpart 9;  
and

(2) if the municipality is proposing to change the selected treatment method or any other major element of a previously approved facilities plan, a facilities plan addendum in conformance with part 7075.0200, subpart 9.

C. If the grant sought is a Step 2, 2+3, or 3 grant, the municipality shall, by June 1 prior to the beginning of the state fiscal year for which the project list is prepared, make all necessary corrections to the documents listed in item B to make them approvable. If the grant sought is a Step 3 grant, the municipality shall

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also submit a council resolution by June 1 agreeing to submit the documents listed below by the following September 1:

(1) plans and specifications in conformance with part 7075.0200, subpart 18, and based on a facilities plan previously approved by the agency;

(2) if the city is proposing to change the selected treatment method or any other major element of previously approved plans and specifications, a plans and specifications addendum in conformance with part 7075.0200, subpart 18, and based on a previously approved facilities plan;

(3) a sewer service charge system comprised of a user charge system, including a proposed financial management system, and a system for raising funds to cover the municipality's costs of construction and to retire the municipality's debt costs attributable to the wastewater treatment works to be constructed.

The user charge system must ensure the sufficient generation of revenue to offset the annual costs of operation, maintenance, and replacement (O, M, and R) of the treatment works and must charge each user class a fee proportional to the contribution of each user class to the total wastewater loading.

The user class includes residential, commercial, industrial, institutional, and governmental classes.

The system for raising funds to cover the municipality's costs of construction and to retire the municipality's debt costs need not be proportionally assessed against each user class, but the manner in which the charge will be distributed must be described.

(4) documentation of how the public has been informed of the proposed sewer service charge system; and

(5) a sewer use ordinance to control discharges to the disposal system throughout the jurisdiction of the municipality.

D. A municipality seeking a Step 3 grant shall submit the documents listed in item C by September 1 of the state fiscal year for which the municipal project list is prepared. If the municipality fails to submit the required items by this deadline, the agency shall remove the municipality from the municipal project list.

E. If the grant sought is a Step 2+3 or 3 grant, the municipality shall, by June 1 prior to the beginning of the fiscal year for which the municipal project list is prepared, indicate its preferred funding source, if it has one, in writing to the commissioner.

F. A municipality seeking a Step 3 federal grant for combined sewer overflow abatement projects or state financial assistance for combined sewer overflow abatement projects shall not be subject to the conditions contained in items C and D. The municipality shall submit by June 1 prior to the beginning of the fiscal year for which the grant or financial assistance is sought, a list and schedule of construction projects to be initiated in the following fiscal year. If the municipality's NPDES/SDS permit provides a different date for submission of the list and schedule, the date in the permit shall take precedence.

**Subp. 3. Preparation of proposed municipal project list.** The agency shall prepare a municipal project list that lists in order of priority the municipalities that are eligible to apply for construction grants for their projects from funds allotted to the state for the current fiscal year by the federal government or appropriated into the fund for the current fiscal year.

In drafting the proposed municipal project list, the agency shall consider the following factors in the order given:

A. total dollars available for obligation from each funding source;

B. eligibility of projects and portions of projects according to these parts and applicable state and federal statutes;

C. restrictions on obligations mandated by these parts and applicable state and federal statutes, including but not limited to set asides for administration of certain types of projects, and the percentage of the cost of construction that will be paid by state and federal grants;

D. the municipalities' preference for funding sources; and

E. the amount of state financial assistance available for combined sewer overflow abatement projects.

**Subp. 4. Procedures for drafting list.** In drafting the proposed municipal project list, the agency shall list projects on the proposed list according to the following procedures:

A. The agency shall attempt to accommodate municipalities' preferences for funding sources in priority order until the costs of the projects being funded from one funding source reach the full allotment or appropriation of grant funds available from that source for the fiscal year. If a municipality expresses no preference, the agency shall determine from which source it will be funded.

B. The agency shall then list projects in priority order, funding those projects from the remaining funding source, until the costs of the projects reach the full allotment or appropriation of grant funds available for the fiscal year. Projects ineligible under the remaining funding source must be considered for placement on the following fiscal year's municipal project list.

C. The agency shall then list on the municipal project list in priority order those projects on the municipal needs list with priority rankings lower than those selected under items A and B, but which have been identified by the Public Facilities Authority as being substantial economic development projects, and for which a portion of the appropriation for the fiscal year has been set aside for such projects.

D. The agency shall then list combined sewer overflow abatement projects for which state financial assistance will be awarded in the fiscal year from funds available for those kinds of projects.

E. The agency may list projects which will receive Step 1 and 2 grants and advances of allowance in such a manner as to permit funding to proceed in an orderly fashion to fully utilize all allocated and appropriated funds.

**Subp. 5. Reimbursement project list.** The agency shall prepare a reimbursement project list that lists those municipalities that are willing to proceed with projects and are willing to be reimbursed in a subsequent year conditioned upon appropriation of sufficient money for that year. No municipality may be listed on the reimbursement project list unless the municipality has requested placement on the list and has received approval of the documents listed in subpart 2, item C. Reimbursement projects must be listed in the same order of priority as they appear on the municipal needs list. A reimbursement project may appear on both the reimbursement project list and the reserve project list.

**Statutory Authority:** *MS s 115.03 subd 1 cl (c); 116.16; 116.162*

**History:** *8 SR 694; 10 SR 278; 10 SR 1758; L 1987 c 186 s 15, c 312 art 1; 13 SR 2329*

#### **7075.0410 RESERVE PROJECT LIST.**

A reserve project list shall be developed by the agency concurrent with the adoption of the municipal project list.

The reserve project list shall contain a list of municipalities whose projects are eligible for funding from funds made available when a municipality's application for a grant is rejected pursuant to part 7075.0415.

Municipalities shall be listed on the reserve project list in the same order of priority as municipalities were listed on the municipal project list.

**Statutory Authority:** *MS s 115.03 subd 1 para (c); 116.16*

**History:** *8 SR 694; 10 SR 278*

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### 7075.0411 PROJECT ELIGIBILITY.

Subpart 1. **Steps eligible.** Federal grants and state matching grants shall be awarded only for Step 2+3 and Step 3 projects. Advances of allowance for Step 1 and 2 projects may also be provided from federal funds. Independent state grants may be awarded for Step 1, Step 2, Step 2+3, and Step 3 projects. Financial assistance for combined sewer overflow abatement shall be awarded only for design and construction work.

Subp. 2. **General eligibility.** No project is eligible for a federal grant or a state matching grant unless it is eligible for funding under the act and applicable federal regulations. No project is eligible for an independent state grant unless it is eligible under this chapter and applicable state statutes. No municipality is eligible for state financial assistance for combined sewer overflow abatement projects unless the municipality complies with the conditions of Minnesota Statutes, section 116.162, subdivision 7.

Subp. 3. **Initiation of construction.** A municipality may retain eligibility of construction costs incurred prior to the award of an independent state grant only if:

A. the municipality was listed on a reimbursement project list when construction began;

B. the municipality submitted a complete grant application to the agency within 90 days after adoption or revision of the reimbursement project list; and

C. the municipality obtained written permission from the agency to advertise for bids and initiate construction before those steps were taken.

Subp. 4. **Cost-effectiveness.** A project is not eligible for a grant unless the agency determines that the project is an environmentally acceptable cost-effective means of handling the municipality's wastewater. The agency shall not award a grant to pay for those portions of a project that are not environmentally acceptable and cost-effective.

Subp. 5. **Eligible costs.** The following provisions govern eligible costs:

A. The eligible cost of any project for which a grant or state financial assistance will be awarded shall be determined by the application of applicable state and federal statutes and rules.

B. In addition to other eligible costs established by state law for combined sewer overflow abatement projects, storm water conveyance facilities that are part of the most cost effective alternative for combined sewer overflow abatement shall be eligible for state financial assistance. Such facilities shall include those structures, pipes, and appurtenances from the point of entry at the catch basin to the outlet structure which are necessary to convey up to the five-year storm.

**Statutory Authority:** *MS s 115.03 subd 1 cl (c); 116.16; 116.162*

**History:** *8 SR 694; 10 SR 278; 10 SR 1758; 13 SR 2329*

### 7075.0412 ADJUSTMENTS IN THE MUNICIPAL PROJECT LIST.

Notwithstanding any other provision in this chapter, the commissioner may, as necessary to establish criteria for determining priority for applications for federal and state construction grants under the act, under regulations and guidelines of the Environmental Protection Agency promulgated under the act, and under Minnesota Statutes, chapters 115 and 116, establish such criteria for determining priority upon a basis other than that provided herein, to the extent required to comply with the act, and with guidelines and regulations under or resulting from the act.

**Statutory Authority:** *MS s 115.03 subd 1; 116.16*

**History:** *8 SR 694; L 1987 c 186 s 15*

**7075.0413 PUBLIC PARTICIPATION.**

**Subpart 1. Needs and project lists.** The agency shall prepare a proposed municipal needs list, a proposed municipal project list, a proposed reserve project list, and a proposed reimbursement project list, and make them available to the public at least 45 days before adoption. The agency shall mail a free copy of the proposed lists to an interested person upon request.

**Subp. 2. Informational meetings.** The agency shall conduct public informational meetings about the proposed lists at locations deemed appropriate by the agency. The agency shall give ten days notice of meetings to all affected municipalities. A person shall be permitted to present oral and written comments about the proposed lists at the meetings.

**Subp. 3. Notice.** The agency shall give affected municipalities at least 45 days notice of the agency board meeting at which the proposed municipal needs list, the proposed municipal project list, the proposed reserve project list, and the proposed reimbursement project list will be acted upon.

**Subp. 4. Oral and written statements.** Interested persons may present oral statements to the board at the board meeting. The chairperson may place reasonable restrictions upon the time and manner in which oral comments are submitted. Written statements may be served on the commissioner any time up to five days before the meeting.

**Statutory Authority:** *MS s 115.03 subd 1 para (c); 116.16*

**History:** *8 SR 694; 10 SR 278; L 1987 c 186 s 15*

**7075.0414 GRANT APPLICATIONS.**

**Subpart 1. Complete application required.** No municipality may be eligible for a construction grant unless a completed grant application has been submitted to the agency.

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

A. A municipality on the final municipal project list for other than a combined sewer overflow project shall submit a completed construction grant application to the agency within 90 days after the date on which the agency adopts that fiscal year's municipal project list.

B. A municipality on the final municipal project list for a combined sewer overflow abatement project shall submit a completed construction grant application, or a completed application for state financial assistance, whichever is being applied for, by December 1 following agency adoption of that fiscal year's municipal project list, unless a different date is provided in the municipality's NPDES/SDS permit, in which case the deadline in the permit shall take precedence.

C. The application for federal grant funds shall be on EPA's form 5700-32, as provided by the agency.

D. The application for state grant funds shall be on the form as provided by the agency.

E. The application for state financial assistance for combined sewer overflow abatement projects shall be on the form as provided by the agency.

**Subp. 3. Agency notification.** The agency shall notify in writing each municipality on the municipal project list, each municipality on the reserve project list, and each municipality on the reimbursement project list of its placement on the appropriate list. No municipality shall submit a construction grant application unless the municipality has been notified by the agency that it is on the municipal project list, the reserve project list, or the reimbursement project list.

**Subp. 4. Additional information for Step 1 grant.** A municipality that applies for a Step 1 grant shall, in addition to submitting the completed application form, submit the following information for agency review and approval:

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A. 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, grant offer, and other related grant documents.

B. A plan of study outlining the scope of work which will lead to an approvable facilities plan.

C. A schedule for completion of the facilities plan.

D. An engineer's certificate of adequate errors and omissions insurance.

E. If more than one municipality is involved in the grant application, the resolutions required in items A; G, subitems (1) to (3); and H must be submitted for each municipality involved in the project. In addition, the municipalities shall submit an agreement indicating their intent to participate in joint treatment, outlining each municipality's responsibilities during planning and setting forth the cost-sharing methodology.

F. An opinion from the municipality's attorney that the municipality has the legal authority to construct, assess, operate, maintain, and replace the wastewater treatment facilities.

G. Unsewered municipalities shall also submit the following:

(1) a resolution by the governing body of the municipality resolving not to proceed with further planning beyond a phase 1 needs determination until the agency has approved phase 1 and concurs that further planning is justified;

(2) a resolution by the governing body of the municipality acknowledging that they are willing to pay the local share of the project costs;

(3) a resolution by the governing body of the municipality resolving that the sewage collection system will be constructed concurrently with the sewage treatment works if the collection system is not part of the project to be funded and the municipality does not already have a collection system; and

(4) the municipality's proposal for funding the cost of a collection system if the collection system is not part of the project to be funded and the municipality does not already have a collection system.

H. A resolution of the governing body of the municipality stating that the municipality will maintain records of costs incurred for facilities planning.

I. Other documents that are required by EPA regulation or other requirements of the act or other state or federal statutes.

**Subp. 5. Additional information for Step 2 or Step 2+3 grant.** A municipality that applies for a Step 2 or Step 2+3 grant shall, in addition to submitting the completed application form, submit the following information for agency review and approval:

A. 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, grant offer, and other related grant documents.

B. Updated cost estimates for Step 3 project work in a format provided by the agency.

C. A resolution by the governing body of the municipality resolving that the sewage collection system will be constructed concurrently with the sewage treatment works if the collection system is not part of the project to be funded and the municipality does not already have a collection system.

D. The municipality's proposal for funding the cost of a collection system if the collection system is not part of the project to be funded and the municipality does not already have a collection system.

E. An engineer's certificate of adequate errors and omissions insurance.

F. If the municipality will be receiving state funds, a council resolution stating that the municipality will maintain records of costs incurred for Step 2 work.



G. A treatment agreement for each major contributing industry that will discharge wastewater to the new or upgraded system.

H. A certification from the municipality that the municipality shall prohibit unpolluted water connections to the municipality's sanitary sewer system in the future, and inspect new connections to the sanitary sewer system throughout the municipality's jurisdiction to ensure that the connections conform to the Minnesota Plumbing Code, found in the rules of the Department of Health, chapter 4715.

I. If more than one municipality is involved in the grant application, the resolutions required in items A to H must be submitted for each municipality involved in the project. In addition, the municipalities shall submit an unexecuted intermunicipal agreement that sets forth the terms and conditions of joint treatment and the cost-sharing methodology.

J. An opinion from the municipality's attorney that the municipality has the legal authority to construct, assess, operate, maintain, and replace the wastewater treatment facilities.

K. Schedule for completion of all Step 2 work.

L. Other documents that are required by EPA regulation or other requirements of the act or other state or federal statutes.

**Subp. 6. Additional information for Step 3 grant.** A municipality that applies for a Step 3 grant shall, in addition to submitting the completed application form, submit the following information for agency review and approval:

A. 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, grant offer, and other related grant documents.

B. A preliminary plan of operation of the treatment works.

C. A proposal for start-up/performance certification of the treatment works, plus the costs for developing an operation and maintenance manual, a final plan of operation, and for start-up/performance certification of the treatment works.

D. A wage rate determination information sheet, as provided by the agency.

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

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

F. A proposed engineering contract that provides for the consulting engineer or the engineer's agent to be present on-site during the hours of construction for purposes of inspection, although the inspector does not have to be a resident of the municipality, and to submit written reports to the agency on request describing the type of construction inspected and the time involved in inspection after construction commences.

G. An engineer's certificate of adequate errors and omissions insurance.

H. A treatment agreement with each major contributing industry that will discharge wastewater to the new or upgraded system.

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

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J. Documentation of the municipality's source of funding to cover the cost of a collection system if the collection system is not part of the project to be funded and the municipality does not already have a collection system.

K. If more than one municipality is involved in the grant application, an executed intermunicipal agreement that sets forth the terms and conditions of joint treatment and the cost sharing methodology.

L. A comprehensive legal opinion identifying that the grantee has sufficient legal vested interest in all sites, easements, and/or rights-of-way to ensure immediate construction and undisturbed utilization for the estimated life of the facilities.

M. Other documents that are required by EPA regulation or other requirements of the act or other state or federal statutes.

N. For municipalities applying for Step 3 federal grants for combined sewer overflow abatement projects, the following information shall also be submitted:

(1) the scope of work outlined in the list and schedule submitted the previous June 1, or in accordance with the NPDES/SDS permit;

(2) such additional scope of work that the municipality could proceed with if any additional funds become available; and

(3) the items listed in part 7075.0409, subpart 2, item C. The plans and specifications shall be for the scope of work described in subitems (1) and (2).

**Subp. 6a. Additional information for state financial assistance for combined sewer overflow abatement.** A municipality that applies for state financial assistance for a combined sewer overflow abatement project shall submit the following information for agency review and approval:

A. the scope of work contained in the list and schedule submitted the previous June 1, or in accordance with the NPDES/SDS permit, plus such additional scope of work as may be necessary to utilize any additional funds that may become available;

B. that information required for a Step 3 grant under subpart 6, items A, F, G, I, and L; and

C. plans and specifications for the scope of work described in item A.

**Subp. 7. Requirements prior to authorization to seek construction bids.** A municipality that has received a Step 2 + 3 grant shall submit, and receive agency approval of, the same information required of a Step 3 grant applicant in subpart 6, items B to M and part 7075.0409, subpart 2, items C and D, before the municipality may receive authorization to seek bids for construction of the project.

**Subp. 8. Three copies.** Construction grant application forms and attachments must be submitted in triplicate to the agency.

**Statutory Authority:** *MS s 115.03 subd 1 para (c); 116.16; 116.162*

**History:** *8 SR 694; 10 SR 278; 10 SR 1758*

### 7075.0415 REJECTION OF GRANT APPLICATIONS.

**Subpart 1. Grounds.** A municipality's grant application for a project on the municipal project list may be rejected by the agency for the following reasons:

A. failure to submit the necessary documentation required by this rule within the time allowed, unless the municipality was delayed for reasons beyond its control;

B. failure to develop the necessary user charge system and other fundraising systems or to develop the necessary ordinances or to enter into the necessary contracts and agreements or to do any of the other acts specified in the grant applications requirements to establish that the municipality has the capa-

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bility to construct, operate, and maintain the disposal system in a manner that will comply with all applicable water pollution control requirements; or

C. a determination by the agency that the municipality cannot implement the project in a timely fashion to avoid the loss of federal grant funds to the state for that fiscal year.

Subp. 2. **Effect of rejection.** Whenever a grant application is rejected, the agency shall remove the municipality from the municipal project list.

**Statutory Authority:** *MS s 115.03 subd 1; 116.16*

**History:** *8 SR 694*

## 7075.0416 APPROVAL OF GRANT APPLICATIONS.

The agency shall approve grant applications that are not rejected for one or more of the reasons specified in part 7075.0415.

The commissioner shall certify to the EPA each approved federal grant application.

**Statutory Authority:** *MS s 115.03 subd 1 para (c); 116.16*

**History:** *8 SR 694; 10 SR 278; L 1987 c 186 s 15*

## 7075.0417 TENDER OF FEDERAL GRANTS AND STATE MATCHING GRANTS.

The state may not tender a federal grant until the EPA has determined the eligibility of the municipality for which a grant application has been certified to EPA.

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

**Statutory Authority:** *MS s 115.03 subd 1 para (c); 116.16*

**History:** *8 SR 694; 10 SR 278*

## 7075.0418 [Repealed, 10 SR 1758].

## 7075.0419 ADVANCES OF ALLOWANCE.

Subpart 1. **Allotment reserve.** The agency shall reserve a reasonable portion of its annual federal allotment for advances to municipalities for Step 1 and Step 2 work. The amount reserved shall not exceed ten percent of the state's federal allotment for a fiscal year.

Subp. 2. **Advance of allowance.** A municipality on the municipal needs list with a population in the service area of less than 25,000 people is eligible to apply for an advance of allowance. The application shall be submitted within 60 days after the date on which the agency informs the city in writing of its intent to offer an advance.

Subp. 3. **Information required for advance of allowance.** A municipality applying for an advance of allowance shall submit the following information to the agency:

A. for a Step 1 advance, the information required in part 7075.0414, subpart 4, items A to G and I;

B. for a Step 2 advance, the information required in part 7075.0414, subpart 5, items A to E and G to L.

Subp. 3a. **Submittal and approval of facilities plan.** In order to receive a Step 2 advance, a municipality shall submit the documents listed in part 7075.0409, subpart 2, item B. The facilities plan must be approved before the advance will be awarded.

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Subp. 4. **Amount of advance.** The amount to be allowed as an advance of allowance shall be that amount determined by EPA.

Subp. 5. **One advance limit.** A municipality is entitled to one Step 1 advance of allowance and one Step 2 advance of allowance.

Subp. 6. **Reduction of Step 3 grant.** A municipality that receives an advance of allowance shall not receive a construction grant for work paid for by the advance of allowance.

Subp. 7. **Payments.** The agency shall pay an advance of allowance in accordance with the procedures and requirements in part 7075.0431. The agency may seek to recover funds tendered or disbursed if the municipality does not make satisfactory progress in submitting an approvable facilities plan or plans and specifications within the time frame specified in the allowance award agreement. If satisfactory progress is not made in submitting approvable plans and specifications, the agency reserves the right not to list the project on the next municipal project list.

Subp. 8. [Repealed by amendment, 10 SR 278]

**Statutory Authority:** *MS s 115.03 subd 1 para (c); 116.16; 116.162.*

**History:** 8 SR 694; 10 SR 278; 10 SR 1758

### 7075.0420 GRANT AMENDMENTS.

Subpart 1. **Grant increases.** The agency shall reserve a reasonable amount of its allotment to pay for grant increases that become necessary during the fiscal year.

Subp. 1a. **Limitation of Step 1 and 2 grant increases.** For grants awarded before May 12, 1982, the agency shall not, after December 31, 1985, award grant increases for Step 1, Step 2, or the Step 2 portion of Step 2+3 grants.

Subp. 2. **Approval of Step 3 and the Step 3 portion of Step 2+3 grant increases.** The agency may approve a Step 3 and the Step 3 portion of a Step 2+3 grant increase when a municipality has solicited contracts that exceed the cost estimated in the application. The agency shall approve the grant amendment if funds are available and the costs are eligible and reasonable. After the as-bid costs have been determined, only cost overruns caused by unanticipated site conditions shall be eligible for funding through grant amendments, and the grant amendment shall be limited to two percent of the as-bid costs.

Subp. 3. **Information required.** A municipality that seeks a grant amendment shall submit the following information to the agency:

A. a written request for the amendment signed by an official of the municipality;

B. a complete cost breakdown and scope of work;

C. a cost breakdown of engineering fees on EPA form 5700-41, as provided by the agency;

D. an unexecuted amended engineering contract indicating changes in the cost, the scope of work, and the budget period that must be made in the contract; and

E. a budget period extension request signed by an official of the municipality if the budget period must be extended.

**Statutory Authority:** *MS s 115.03 subd 1 para (c); 116.16*

**History:** 8 SR 694; 10 SR 278

### 7075.0421 CHANGE ORDERS.

Any proposed changes in the contract which result in cost increases greater than that of the base contract plus contingencies as stated in the project summary or other proposed changes regardless of cost which substantially alter the type of treatment process, or its efficiency, versatility, or reliability, must be submitted

to the commissioner for prior approval, except where the work is agreed by the commissioner to be of an emergency nature. Change orders not requiring prior approval of the commissioner must be submitted within one month after the date on which the change is ordered by the applicant, its engineer, or other authorized agent for review and approval.

**Statutory Authority:** *MS s 115.03 subd 1; 116.16*

**History:** *8 SR 694; L 1987 c 186 s 15*

**7075.0422** [Repealed, 10 SR 278]

**7075.0423 RETAINED PAYMENTS.**

The agency may withhold Step 3 grant payments and may request the EPA to withhold grant payments 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 grant agreement, or the municipality has failed to comply with the applicable requirements in parts 7075.0429 to 7075.0432. If funds are withheld pursuant to this part, and the condition causing the withholding has been corrected, then all retained funds shall be released to the municipality, unless otherwise agreed to by the commissioner and the municipality.

**Statutory Authority:** *MS s 115.03 subd 1 para (c); 116.16*

**History:** *8 SR 694; 10 SR 278; L 1987 c 186 s 15*

**7075.0424 RECOVERY OF FUNDS.**

In addition to any other remedies, the agency may seek to recover funds tendered or disbursed for a project that is improperly designed, improperly constructed, or improperly operated and maintained.

**Statutory Authority:** *MS s 115.03 subd 1; 116.16*

**History:** *8 SR 694*

**7075.0425 LOCAL SHARE.**

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

A. the municipality has applied for a state grant to cover the local share by July 1 prior to the fiscal year for which the grant is requested;

B. the municipality is unable to finance the local share and qualifies for the maximum percentage according to the criteria in part 7075.0428, subpart 4;

C. application is made and approval received from the agency prior to the initiation of construction; and

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

**Statutory Authority:** *MS s 115.03 subd 1 para (c); 116.16*

**History:** *8 SR 694; 10 SR 278*

**7075.0426 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 disposal system, to be paid for in whole or in part by state construction grant funds, may assign its rights under the contract to the agency.

**Statutory Authority:** *MS s 115.03 subd 1; 116.16*

**History:** *8 SR 694*

**7075.0427 CONTRACT BENEFICIARY.**

A municipality that enters into a contract with a contractor or engineer for

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the planning, designing, or construction of a part of or an entire disposal system, to be paid for in whole or in part by state construction grant funds, shall provide in the contract that the agency is a third-party beneficiary to the contract.

**Statutory Authority:** *MS s 115.03 subd 1; 116.16*

**History:** 8 SR 694

### 7075.0428 GRANT AMOUNTS.

**Subpart 1. State matching grants.** This subpart applies to state matching grants.

A. For projects tendered on or after October 1, 1984, and before October 1, 1987, a federal grant at 55 percent or more of the eligible cost for construction of a treatment works, the agency shall award a state matching grant for up to an additional 30 percent of the eligible cost if construction of the treatment works would otherwise impose a significant financial hardship on the municipality.

B. For projects tendered, on or after October 1, 1987, a federal grant at 55 percent or more of the eligible cost for construction of a treatment works, the agency shall award a state matching grant for 50 percent of the nonfederal share of the eligible cost of construction for municipalities with populations of 25,000 or less.

**Subp. 2. Independent state grants.** The agency may award independent state grants as follows:

A. The agency may award Step 1 and Step 2 independent state grants to municipalities in an amount determined according to the same procedures for calculating an allowance under Code of Federal Regulations, title 40, part 35, appendix B.

B. The agency may award Step 2+3 and Step 3 independent state grants to municipalities to pay for 50 percent of the eligible cost of construction, or, if the population of the municipality is 25,000 or less, 80 percent of the eligible cost of construction.

**Subp. 2a. State financial assistance for combined sewer overflow abatement projects.** The agency may award state financial assistance for combined sewer overflow abatement projects as follows:

A. The agency may award state financial assistance for design of combined sewer overflow abatement projects to municipalities in an amount determined according to the same procedures for calculating an allowance under Code of Federal Regulations, title 40, part 35, appendix B.

B. Each fiscal year, municipalities eligible for financial assistance for combined sewer overflow abatement projects shall be awarded a proportionate share of the appropriation available for such projects in that fiscal year. The proportionate share for each eligible municipality is as follows:

- (1) Minneapolis, 24.2 percent;
- (2) Saint Paul, 71.6 percent;
- (3) South Saint Paul, 4.2 percent.

C. By no later than March 31 each year, beginning in 1987, the agency shall determine whether or not each municipality that is eligible for financial assistance under this program has submitted a complete financial assistance application and either the city council has adopted final orders for construction if the work is to be contracted out, or issued work proceed orders if the municipality will do the work with its own employees, for enough work to allow the municipality to utilize its total pro rata share for the present fiscal year. If the agency determines that a municipality has not submitted a complete financial assistance application and the city council has not adopted final orders for construction or the city has not issued work proceed orders, the agency shall distribute such unusable funds to other eligible municipalities that have submit-

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ted complete financial assistance applications to utilize such additional funds. For any municipality that is awarded additional funds, the city council shall adopt final orders for construction or the city shall issue work proceed orders to utilize such funds by May 31 of the present fiscal year in order to retain the funds.

Each fiscal year, beginning in 1988, allocations to a municipality that has received additional funds shall be reduced by one-third of the total amount of additional funds that have been awarded to the municipality in earlier years. These funds shall be awarded to the municipality that was initially entitled to them. In the event that, for the municipality entitled to the repayment funds, the city council still has not adopted final orders for construction or the city has not issued work proceed orders to utilize the funds in that fiscal year, the municipality awarded the additional funds is not required to make the repayment. The repayment procedure set forth in this item shall continue until the municipality has repaid all additional funds that it has been awarded or until the municipality has completed its combined sewer overflow abatement projects in their entirety.

**Subp. 3. Local share.** Except as provided in part 7075.0425, in no event may a municipality that obtains a state matching grant or independent state grant be responsible for less than ten percent of the eligible cost of the project.

**Subp. 4. Significant financial hardship.** The amount of a state matching grant awarded to a municipality which was awarded a federal grant after October 1, 1984, and before October 1, 1987, depends on the extent to which construction of the treatment works imposes a significant financial hardship on the municipality. The determination of the financial hardship and the amount of the grant must be based on per connection capital cost, median household income, and per capita adjusted assessed valuation, in accordance with the following procedures:

A. The agency shall award a state matching grant for up to five percent of the eligible cost of construction based on the municipality's per connection capital cost after bidding compared with the median per connection capital cost for all projects which accepted bids under the programs during the two years ending July 1 prior to adoption of the municipal project list on which the municipality appears. The percentage of the eligible cost to be paid for by the grant based on per connection capital cost is determined by the following table.

Municipality Per Connection Cost × 100 ÷ Median Per Connection Cost of Projects Bid During Previous Two Years	Percentage of Cost Funded
60 - 69	0.5
70 - 79	1.0
80 - 89	1.5
90 - 99	2.0
100 - 119	2.5
120 - 139	3.0
140 - 159	3.5
160 - 179	4.0
180 - 199	4.5
200 or more	5.0

B. The agency shall award a state matching grant for up to five percent of the eligible cost of construction based on the municipality's median household income compared with the state median nonmetropolitan household income. Median household income must be determined from the latest federal census. The percentage of the eligible cost to be paid for by the grant based on median household income is determined by the following table.

Municipality Median Household Income × 100 ÷ State Median Nonmetropolitan Household Income	Percentage of Cost Funded
100 - 104	0.5
95 - 100	1.0

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90 - 94	1.5
85 - 89	2.0
80 - 84	2.5
75 - 79	3.0
70 - 74	3.5
65 - 69	4.0
60 - 64	4.5
less than 60	5.0

C. The agency shall award a state matching grant for up to five percent of the eligible cost of construction based on the municipality's per capita adjusted assessed valuation compared with the state median per capita adjusted assessed valuation. Per capita adjusted assessed valuation must be determined from the latest data available from the Department of Revenue at the time of the grant award. The percentage of the eligible cost to be paid for by the grant based on the per capita adjusted assessed valuation is determined by the following table.

Municipality Per Capita Adjusted Assessed Valuation $\times 100 \div$ State Median Per Capita Adjusted Assessed Valuation	Percentage of Cost Funded
105 - 109	0.5
100 - 104	1.0
95 - 99	1.5
90 - 94	2.0
85 - 89	2.5
80 - 84	3.0
75 - 79	3.5
70 - 74	4.0
65 - 69	4.5
less than 65	5.0

**Statutory Authority:** *MS s 115.03 subd 1 para (c); 116.16; 116.162*

**History:** *10 SR 278; 10 SR 1758; 13 SR 2329*

### 7075.0429 PAYMENT OF STATE MATCHING GRANTS.

**Subpart 1. Step 1 matching grants.** The agency shall pay 50 percent of a Step 1 state matching grant when an adequate facilities plan has been received by the commissioner. The remaining 50 percent of the Step 1 state matching grant shall be paid when the agency approves the facilities plan and after final payment has been paid by the Environmental Protection Agency.

**Subp. 2. Step 2 matching grants for federal grants awarded before May 12, 1982.** The agency shall pay 50 percent of a Step 2 state matching grant for a federal grant awarded before May 12, 1982, when adequate plans and specifications, a user charge system, and a preliminary plan of operation have been received by the commissioner. The remaining 50 percent of the Step 2 state matching grant shall be paid when the agency approves of the plans and specifications, the user charge system, and the preliminary plan of operation, and after final payment has been paid by the Environmental Protection Agency.

**Subp. 3. Step 2 portion of Step 2+3 matching grants for federal grants awarded before May 12, 1982.** The agency shall pay 50 percent of the Step 2 portion of a Step 2+3 state matching grant for a federal grant awarded before May 12, 1982, when adequate plans and specifications, a user charge system, and a preliminary plan of operation have been received by the commissioner. The remaining 50 percent of the Step 2 state matching grant shall be paid when the agency has given authorization to bid and after final payment has been paid by the Environmental Protection Agency. The agency shall pay for eligible land costs when the municipality submits proof of purchase, if the municipality received the agency's advance approval to purchase the land.



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**Subp. 4. Step 2 portion of Step 2+3 matching grants for federal grants awarded after May 12, 1982.** The agency shall pay 50 percent of the Step 2 portion of a Step 2+3 state matching grant awarded after May 12, 1982, when the plans and specifications are 50 percent complete, and the municipality has submitted a payment request certifying that at least 50 percent of the work on the plans and specifications is complete. The agency shall pay the remaining 50 percent of the Step 2 portion of the grant when a payment request indicating the amount of costs incurred for Step 2, the final invoice, and canceled check as proof of payment, have been submitted, the Environmental Protection Agency has paid the federal grant, and the municipality has awarded all subcontracts for construction and purchased all eligible land. The agency shall pay for eligible land costs when the municipality submits proof of purchase, provided the municipality received the agency's advance approval to purchase the land.

**Subp. 5. Step 3 matching grant.** A municipality may request periodic payments of a Step 3 state matching grant up to 50 percent of the total grant. The request for payment shall be submitted to the agency in writing. With each payment request the municipality shall submit a summary of all architectural and engineering costs expended to date in the format required in submitting the original grant application.

The agency shall make a final grant payment for the remaining 50 percent of the grant after the agency has completed a final inspection of the treatment works and the municipality has:

- A. submitted to the agency a request for the payment;
- B. provided evidence that the municipality has hired a wastewater treatment works operator having a valid state certificate;
- C. adopted the sewer use ordinance that will control wastewater discharges to the municipality's wastewater treatment system;
- D. adopted a sewer service charge system with updated cost revisions;
- E. submitted a certification by the contractor that the project was built according to the plans and specifications;
- F. submitted a copy of the as-built specifications;
- G. certified that the municipality is complying with the approved operation and maintenance manual for the treatment works;
- H. complied with the municipality's NPDES/SDS permit for the treatment works;
- I. put the treatment plant into operation and is operating the treatment plant efficiently;
- J. received final payment of the federal grant;
- K. received agency approval of a revised operation and maintenance manual;
- L. received agency approval of the final plan of operations;
- M. if the federal grant was awarded before December 29, 1981, submitted a start-up report;
- N. if the federal grant was awarded on or after December 29, 1981, received agency approval of a start-up evaluation report, including certification by the municipality that the facilities meet the project performance standards; and
- O. received agency approval of the final small, minority, and women's business enterprise report, which includes canceled checks or lien waivers as proof of payment.

**Subp. 6. Step 3 portion of Step 2+3 matching grant.** The agency shall pay the Step 3 portion of a Step 2+3 grant in accordance with the procedures and requirements in subpart 5.

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**Subp. 7. Step 3 matching grant with allowance.** The agency shall pay 50 percent of the estimated allowance for facilities planning and design immediately after the grant is awarded provided the municipality submits a payment request. The agency shall pay the final payment of the allowance when the municipality has awarded all subcontracts for construction, purchased all eligible land, and submitted a payment request, including a copy of the final invoice and canceled check as proof of payment, and the EPA has paid the federal allowance.

The agency shall pay the Step 3 grant in accordance with the procedures and requirements in subpart 5.

**Statutory Authority:** *MS s 115.03 subd 1 para (c); 116.16*

**History:** *10 SR 278; L 1987 c 186 s 15*

### 7075.0430 PAYMENT OF INDEPENDENT STATE GRANTS.

**Subpart 1. Step 1 grants for sewerred communities.** The agency shall pay Step 1 grants for sewerred communities in accordance with the following schedule:

A. 25 percent of the grant when the facilities plan is 50 percent complete, as certified by the municipality;

B. up to 50 percent of the grant when the facilities plan is received by the commissioner; and

C. the balance of the grant when the facilities plan has been approved by the agency, and the municipality has submitted a final payment request and a copy of the final invoice and canceled check as proof of payment.

**Subp. 2. Step 1 grants for unsewered communities.** The agency shall pay Step 1 grants for unsewered communities in accordance with the following schedule:

A. Twenty-five percent of the grant when the agency determines that the municipality needs to do additional planning for sewage treatment. If the agency determines that the municipality does not need to do additional planning, this payment will constitute final payment.

B. Up to 50 percent of the grant when the facilities plan is received by the commissioner.

C. The balance of the grant when the facilities plan has been approved by the agency, and the municipality has submitted the final payment request and a copy of the final invoice and canceled check as proof of payment.

**Subp. 3. Step 2 grants.** The agency shall pay Step 2 grants in accordance with the following schedule:

A. 25 percent of the grant when the plans and specifications are 50 percent complete, as certified by the municipality;

B. up to 50 percent of the grant when adequate plans and specifications, a user charge system, and a preliminary plan of operation are received by the commissioner; and

C. the balance of the grant when the plans and specifications, the user charge system; and the preliminary plan of operation have been approved by the agency, and the municipality has submitted the final payment request and a copy of the final invoice and canceled check as proof of payment.

**Subp. 4. Step 2 portion of Step 2+3 grants.** The agency shall pay the Step 2 portion of a Step 2+3 grant in accordance with the procedures and requirements in part 7075.0429, subpart 4, except that no federal payment will be required. The agency shall not make the final 50 percent payment until the municipality has submitted a copy of the final invoice and canceled check as proof of payment.

**Subp. 5. Step 3 portion of Step 2+3 grant.** The agency shall pay the Step 3 portion of a Step 2+3 grant in accordance with the following schedule:

A. A municipality may request in writing periodic payments of the Step 3 portion of a Step 2+3 grant up to 50 percent of the total grant. With each payment request the municipality shall submit a summary of all architectural and

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engineering costs expended to date in the format required in submitting the original grant application.

B. The agency shall make periodic payments of the amount encompassing 51 to 80 percent of the Step 3 portion of the Step 2+3 grant when the municipality submits the information required in item A and has completed the following:

- (1) received agency approval of the final plan of operation;
- (2) provided evidence that the municipality has hired a wastewater treatment works operator having a valid state certificate;
- (3) adopted a sewer use ordinance that will control wastewater discharges to the municipality's wastewater treatment system;
- (4) adopted a sewer service charge system with updated cost revisions;
- (5) submitted an approvable final operation and maintenance manual; and
- (6) submitted a small, minority, and women's business progress report.

C. The agency shall make a final payment for the remaining 20 percent of the grant after the agency has completed a final inspection of the facilities and the municipality has completed the tasks for the earlier payments and performed the following:

- (1) submitted a certification by the contractor that the project was built according to the plans and specifications;
- (2) submitted a copy of the as-built specifications;
- (3) certified that the municipality is complying with the approved operation and maintenance manual for the treatment works;
- (4) complied with the municipality's NPDES/SDS permit for the treatment works;
- (5) put the treatment plant into operation and is operating the treatment plant efficiently;
- (6) received agency approval of a revised operation and maintenance manual;
- (7) received agency approval of a start-up evaluation report, including certification by the municipality that the facilities meet the project performance standards;
- (8) received agency approval of the final small, minority, and women's business enterprise report, which includes canceled checks or lien waivers as proof of payment; and
- (9) submitted a final payment request and a copy of the final invoice and canceled check as proof of payment.

Subp. 6. **Step 3 grants.** The agency shall make periodic payments of a Step 3 grant in accordance with the procedures and requirements in subpart 5.

Subp. 7. **Step 3 grant with allowance.** The agency shall pay 50 percent of the estimated allowance for facilities planning and design immediately after the grant is awarded provided the municipality has submitted a payment request indicating the amount of costs incurred for facilities planning and design. The agency shall pay the final payment of the allowance when the municipality has awarded all subcontracts for construction, purchased all eligible land, and submitted a payment request and a copy of the final invoice and canceled check as proof of payment.

The agency shall make periodic payments of the Step 3 grant in accordance with the procedures and requirements in subpart 5.

**Statutory Authority:** *MS s 115.03 subd 1 para (c); 116.16*

**History:** *10 SR 278; L 1987 c 186 s 15*

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### 7075.0431 PAYMENT OF ADVANCES OF ALLOWANCE.

Subpart 1. **Sewered communities.** The agency shall pay Step 1 advances of allowance for sewered communities upon submittal of a payment request by the municipality.

Subp. 2. **Unsewered communities.** The agency shall pay Step 1 advances of allowance for unsewered communities in accordance with the following schedule:

A. Twenty-five percent of the allowance upon submittal of a payment request by the municipality. If the agency determines that the municipality does not need to do additional planning for wastewater treatment, this will constitute final payment.

B. The remaining 75 percent shall be paid by the agency when the agency determines that the municipality needs to do additional planning for wastewater treatment and the municipality has submitted a payment request.

Subp. 3. **Step 2 advances of allowance.** The agency shall pay Step 2 advances of allowance upon submittal of a payment request by the municipality.

**Statutory Authority:** *MS s 115.03 subd 1 para (c); 116.16*

**History:** *10 SR 278*

### 7075.0432 GENERAL REQUIREMENTS.

Subpart 1. **EPA payment.** The agency shall not make any payments of a state matching grant until the Environmental Protection Agency has paid the corresponding federal grant payment.

Subp. 2. **Reduction in state grant payments.** For all state grants, including allowances, if the actual costs are less than the amount on which the grant was based, the agency shall reduce the grant proportionately.

Subp. 3. **Payment request.** The agency shall not make any grant payments unless the municipality submits a written payment request.

**Statutory Authority:** *MS s 115.03 subd 1 para (c); 116.16*

**History:** *10 SR 278*

### 7075.0433 PAYMENT OF STATE FINANCIAL ASSISTANCE FOR COMBINED SEWER OVERFLOW ABATEMENT.

The municipality may request in writing periodic payments as work on the project progresses up to 80 percent of the total amount of the financial assistance. After final inspection, the agency shall pay the remaining 20 percent after the municipality has complied with part 7075.0430, subpart 5, item C, subitems (1), (4), and (9).

**Statutory Authority:** *MS s 115.03 subd 1 cl (c); 116.16; 116.162*

**History:** *10 SR 1758*

7075.0500 [Repealed by amendment, 8 SR 694]

7075.0600 [Repealed by amendment, 8 SR 694]

7075.0700 [Repealed by amendment, 8 SR 694]

7075.0800 [Repealed by amendment, 8 SR 694]

7075.0900 [Repealed by amendment, 8 SR 694]

7075.1000 [Repealed by amendment, 8 SR 694]

## CORRECTIVE ACTION GRANTS PROGRAM

### 7075.1005 PURPOSE.

The corrective action grants program provides grants to municipalities with wastewater treatment facilities funded under the Clean Water Act, United States

Code, title 33, sections 1281 to 1299, or the independent state 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. Parts 7075.1005 to 7075.1090 pertain to the agency's responsibilities in administering the program.

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

**History:** *13 SR 2330*

#### **7075.1010 DEFINITIONS.**

**Subpart 1. Scope.** For the purpose of this program, the following terms have the meanings given them.

**Subp. 2. Agency.** "Agency" means the Minnesota Pollution Control Agency.

**Subp. 3. Authority.** "Authority" means the Minnesota Public Facilities Authority.

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

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

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

**History:** *13 SR 2330*

#### **7075.1020 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 independent state 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.

D. For projects that were originally funded under the Clean Water Act, United States Code, title 33, sections 1281 to 1299, the inability of the wastewater treatment facility to meet performance standards is not the result of the failure of innovative or alternative technology components.

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

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

**History:** *13 SR 2330*

#### **7075.1030 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 independent state 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 and land costs approved in the corrective action report and eligible under subpart 1.

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

**History:** *13 SR 2330*

#### **7075.1040 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 116.181 subd 5*

**History:** *13 SR 2330*

#### **7075.1050 APPLICATION.**

The municipality shall apply for a corrective action grant on a form provided by the authority. The municipality must also submit a plan, endorsed by resolution of the municipality's governing body, for the recovery of the costs of the proposed corrective action from responsible parties, including a report on the current status of negotiations or litigation.

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

**History:** *13 SR 2330*

#### **7075.1060 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 7075.1040 and 7075.1050 are received and to the extent that funds are available.

Subp. 2. **Amount of award.** Except as provided in part 7075.1090, 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. **Amendments to award.** Any grant amendments shall be based on the cost of the completed procurement actions and shall be dependent upon the availability of additional grant funds.

Subp. 4. **Certification to authority.** Upon review and approval of the documents required under parts 7075.1040 and 7075.1050, 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. **Report to agency board.** The commissioner shall report the certification of a corrective action grant under this part to the agency board as soon as possible, but, in any case, within 60 days.

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

**History:** *13 SR 2330*

#### 7075.1070 CHANGE ORDERS.

A municipality proposing to make changes in a corrective action project that substantially alter the type or reliability of the treatment process must submit to the commissioner the information the commissioner requests to determine the impact of the proposed change on the environment. Changes in the project that substantially alter the type or reliability of the treatment process must be approved by the commissioner before the change is made. The commissioner shall review the proposed change in the same manner as the original project was reviewed for compliance with applicable pollution control requirements. A substantial change in the type or reliability of the treatment process implemented without prior approval from the commissioner constitutes grounds for the commissioner to request that the authority terminate the grant.

Change orders for changes that do not substantially alter the type or reliability of the treatment process do not require prior approval of the commissioner, but must be submitted to the commissioner as soon as possible.

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

**History:** *13 SR 2330*

#### 7075.1080 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. 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 project must substantially conform to the approved corrective actions report.

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

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

Subp. 3. **Retainage.** The commissioner shall withhold 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

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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 116.181 subd 5*

**History:** *13 SR 2330*

### 7075.1090 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 after corrective action taken.** In the event that the municipality recovers an amount of money from the responsible persons after the corrective action has been taken and state corrective action grant funds spent, the municipality shall repay to the state a portion of the money recovered. The portion of the recovery to be paid to the state shall be proportional to the state's monetary participation in the corrective action project. The amount of the payment to the state shall not exceed the amount of the grant.

**Subp. 3. Recovery before corrective action taken.** In the event that the municipality recovers an amount of money from the responsible persons before the corrective action is taken, the amount of the corrective action grant to be awarded shall be determined by allowing the municipality to keep the entire payment from the responsible persons.

**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 116.181 subd 5*

**History:** *13 SR 2330*

7075.1100 [Repealed by amendment, 8 SR 694]

### CAPITAL COST COMPONENT GRANT PROGRAM

#### 7075.1105 PURPOSE.

Parts 7075.1105 to 7075.1160 provide for the administration of the capital cost component grant program which makes grants available 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 facilities.

**Statutory Authority:** *MS s 116.18 subd 3b para (g)*

**History:** *13 SR 1238*

#### 7075.1110 DEFINITIONS.

**Subpart 1. Scope.** For the purpose of parts 7075.1105 to 7075.1160, the following terms have the meanings given them.



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## 7075.1110 STATE FUND AND FEDERAL GRANTS

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Subp. 2. **Agency.** "Agency" means the Minnesota Pollution Control Agency.

Subp. 3. **Authority.** "Authority" means the Minnesota Public Facilities Authority.

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

Subp. 5. **Initiation of construction.** "Initiation of construction" means issuance of a notice to proceed under a construction contract for any segment of work on the project.

Subp. 6. **Municipal needs list.** "Municipal needs list" means the priority list prepared by the commissioner under parts 7075.0402 to 7075.0408.

Subp. 7. **Project.** "Project" means the work for which a grant or grant amendment is awarded under parts 7075.1105 to 7075.1160.

**Statutory Authority:** *MS s 116.18 subd 3b para (g)*

**History:** *13 SR 1238*

## 7075.1115 ELIGIBILITY.

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

**Statutory Authority:** *MS s 116.18 subd 3b para (g)*

**History:** *13 SR 1238*

## 7075.1120 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 facility;

B. an engineering report containing:

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

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

(3) the municipality's existing wastewater flows and loadings data; and

(4) the municipality's estimated future wastewater flows and loadings data;

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 facility 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.

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**Statutory Authority:** *MS s 116.18 subd 3b para (g)*

**History:** 13 SR 1238

## 7075.1125 SELECTION OF ELIGIBLE GRANTEES.

**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 municipal needs 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 116.18 subd 3b para (g)*

**History:** 13 SR 1238

## 7075.1130 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 facilities that have accepted bids under the state and federal construction grants program during the three previous state fiscal years. The municipal wastewater treatment facilities 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 facility. The cost of acquiring an existing facility must not be included as an eligible cost for the purpose of determining actual costs.

**Statutory Authority:** *MS s 116.18 subd 3b para (g)*

**History:** 13 SR 1238

## 7075.1135 CERTIFICATION OF AWARD.

The commissioner shall certify to the authority the list of projects to be awarded grants and the amount of the grant to be awarded based on the criteria in parts 7075.1125 and 7075.1130.

**Statutory Authority:** *MS s 116.18 subd 3b para (g)*

**History:** 13 SR 1238

## 7075.1140 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 facility.

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A. Within 90 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 facility. 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 facility into operation, the grantee shall submit to the commissioner an operations and maintenance manual for the wastewater treatment facility. The commissioner shall review the manual and provide comments to the grantee.

**Statutory Authority:** *MS s 116.18 subd 3b para (g)*

**History:** *13 SR 1238*

## 7075.1145 INSPECTIONS.

The commissioner has the authority to conduct inspections of the grantee's project under the authority of Minnesota Statutes, section 115.03, subdivision 1, paragraph (f).

**Statutory Authority:** *MS s 116.18 subd 3b para (g)*

**History:** *13 SR 1238*

## 7075.1150 GRANT PAYMENT.

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

**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 facility has been completed in accordance with the approved plans and specifications and approved change orders;

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(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 7075.1140, subpart 2;

(4) submission 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 facility.

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 bypasses 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 7075.1135 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 116.18 subd 3b para (g)*

**History:** *13 SR 1238*

### 7075.1155 TERMINATION OF GRANT.

Failure of the grantee to comply with part 7075.1140 shall constitute grounds for the commissioner to recommend that the authority terminate the grant of a grantee.

**Statutory Authority:** *MS s 116.18 subd 3b para (g)*

**History:** *13 SR 1238*

### 7075.1160 RECOVERY OF FUNDS.

Violation of permit conditions by reason of improper design, improper construction, or improper operation and maintenance shall constitute grounds for the commissioner to recommend that the authority seek to recover grant funds tendered or disbursed to a grantee. In determining whether to recommend such action to the authority, the commissioner shall consider the steps the grantee has undertaken to correct the problem that caused the violation of permit conditions. The commissioner shall advise the agency whenever a recommendation is made to the authority to seek recovery of grant funds.

**Statutory Authority:** *MS s 116.18 subd 3b para (g)*

**History:** *13 SR 1238*

**7075.1200** [Repealed by amendment, 8 SR 694]

**7075.1300** [Repealed by amendment, 8 SR 694]

**INDIVIDUAL ON-SITE WASTEWATER TREATMENT SYSTEMS  
GRANTS PROGRAM****7075.1400 PURPOSE.**

Parts 7075.1400 to 7075.1530 provide for the administration of the individual on-site wastewater treatment systems grants program that makes grants available to municipalities to assist owners of individual on-site wastewater treatment systems to upgrade or replace their failed individual on-site wastewater treatment systems.

**Statutory Authority:** *MS s 116.18 subd 3c para (f)*

**History:** *13 SR 1822*

**7075.1410 DEFINITIONS.**

Subpart 1. **Scope.** For the purpose of parts 7075.1400 to 7075.1530 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 on-site wastewater 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.

Subp. 3. **Agency.** "Agency" means the Minnesota Pollution Control Agency.

Subp. 4. **Authority.** "Authority" means the Minnesota Public Facilities Authority.

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

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 on-site wastewater treatment system established by a contract between a system owner and a system installer.

Subp. 7. **Designer.** "Designer" means a person who designs individual on-site wastewater treatment systems, and has received agency approval under part 7075.1440.

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 a wastewater treatment system that has been issued an abatement notice by the municipality's inspector.

Subp. 10. **Individual on-site wastewater treatment system or individual system.** "Individual on-site wastewater treatment system" or "individual system" means a wastewater treatment system, or part of a system, serving one or two dwellings or other establishments, that uses subsurface soil treatment and disposal.

Subp. 11. **Inspector.** "Inspector" means a person employed by or under contract to the municipality who inspects individual on-site wastewater treatment systems for conformance with the ordinance that adopts the requirements of chapter 7080, and has received agency approval under part 7075.1440.

Subp. 12. **Installer.** "Installer" means a person who constructs or repairs individual on-site wastewater treatment systems, and has received agency approval under part 7075.1440.

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.

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.

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Subp. 15. **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. 16. **Other establishment.** "Other establishment" means a public or private structure other than a dwelling that generates wastewater.

Subp. 17. **Seasonal residence.** "Seasonal residence" means a dwelling used 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. 18. **Site evaluator.** "Site evaluator" means a person who investigates soils and site characteristics, does soil borings or percolation tests for use in designing individual on-site wastewater treatment systems, and has received agency approval under part 7075.1440.

Subp. 19. **Trench or bed system.** "Trench or bed system" means an individual 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 116.18 subd 3c para (f)*

**History:** *13 SR 1822*

### 7075.1420 ELIGIBILITY.

Subpart 1. **Municipality eligibility.** A municipality applying for the individual system owners must meet the following conditions to be eligible for a grant:

A. be authorized by its governing body to assume responsibility for the grant application and related documents for owners of individual on-site wastewater treatment systems who are in its jurisdiction and included in the planning area under part 7075.1430, subpart 2;

B. have developed and adopted a wastewater treatment plan under part 7075.1430;

C. have enacted and be enforcing an ordinance that adopts the requirements of chapter 7080, Individual Sewage Treatment Systems Standards;

D. have enacted an ordinance that establishes a maintenance plan for the individual on-site wastewater treatment systems in its jurisdiction; and

E. have a median household income that is less than the state median household income. Municipalities not included in the decennial census shall submit an alternate median household income figure for their municipality, supported by complete income data and a computation methodology. If the data is complete and the computation methodology is equivalent to the decennial census, the alternate median household income will be approved by the commissioner.

Subp. 2. **Individual system eligibility.** The individual systems to be replaced or upgraded included in the municipality's grant application must meet the following conditions:

A. be a failed system;

B. have been constructed before January 1, 1977;

C. not be serving a seasonal residence; and

D. not have been constructed with state or federal water pollution control funds.

Subp. 3. **Previous funding.** Individual 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 part.

**Statutory Authority:** *MS s 116.18 subd 3c para (f)*

**History:** 13 SR 1822

#### 7075.1430 WASTEWATER TREATMENT PLAN.

**Subpart 1. General requirements.** The municipality must develop a wastewater treatment plan that identifies wastewater treatment needs and proposes long-term solutions for a planning area under subpart 2. The plan must be adopted by the municipality's governing body.

**Subp. 2. Planning area.** The planning area is the entire geographic area in the municipality's jurisdiction unless the municipality submits an alternative proposal at the time of application. Alternative proposals must be approved by the commissioner and will be evaluated based on housing density, water quality impact, and public health impact.

**Subp. 3. Plan contents.** The plan must include the following:

A. a planning area survey prepared by an inspector that identifies failed systems;

B. site evaluations, including soil investigations, for the failed systems prepared by a site evaluator or site evaluators to determine if it is feasible to replace or upgrade systems on site;

C. an analysis of the overall wastewater treatment needs in the municipality prepared by a designer using data from a site evaluator or site evaluators;

D. a list of the specific failed individual on-site wastewater treatment systems, including addresses and names of property owners requesting grant funds and copies of the abatement notices;

E. a proposal for addressing the remaining wastewater treatment needs in the planning area not covered in item D, including specific actions to be taken and a proposed timetable for addressing the wastewater treatment needs; and

F. documentation of approval of the inspector, site evaluator or site evaluators, and designer under part 7075.1440.

**Subp. 4. Approval of plan.** The commissioner will review the parts of the plan submitted under subpart 3, items B and C, and approve them if they are in conformance with chapter 7080.

**Statutory Authority:** *MS s 116.18 subd 3c para (f)*

**History:** 13 SR 1822

#### 7075.1440 APPROVAL OF INDIVIDUAL ON-SITE WASTEWATER TREATMENT PERSONNEL.

**Subpart 1. General requirement.** For the purposes of parts 7075.1400 to 7075.1530, inspectors, site evaluators, designers, and installers who inspect, evaluate sites for, design, and install individual on-site wastewater 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.

**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.

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

(1) An inspector must submit a list of individual on-site wastewater 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) A site evaluator must submit a list of individual on-site wastewater treatment systems for which the evaluator has conducted site evaluations in the past three years. The site evaluator must certify that a minimum of 20 sites for the systems listed were evaluated according to the criteria in chapter 7080.

(3) A designer must submit a list of individual on-site wastewater treatment systems designed by the applicant in the past three years. The 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 on-site wastewater 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, site evaluators, 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, site evaluators, designers, and installers nor does it alter legal liability of this personnel otherwise provided by law.

**Statutory Authority:** *MS s 116.18 subd 3c para (f)*

**History:** *13 SR 1822*

### 7075.1450 APPLICATION.

Subpart 1. **Notice of taking applications.** The commissioner will request the authority to publish in the State Register a notice that applications for individual on-site wastewater treatment grants will be accepted by the authority. The application closing date will be established by the commissioner, and will be no less than 90 days after the publication date.

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

A. a resolution of the governing body of the municipality that designates the municipality as the responsible party for the grant application and related documents, authorizes the filing of the application, and designates the municipal official authorized to sign the application and related documents;

B. the wastewater treatment plan prepared under part 7075.1430;

C. a copy of the ordinance that adopts the requirements of chapter 7080 and certification that the ordinance is being enforced;

D. a copy of the ordinance establishing a maintenance plan under part 7075.1420, item D;

E. alternative median household income data under part 7075.1420, item E, for municipalities not included in the decennial census;

F. signed statements from the individual system owners stating that their system meets the following conditions:

(1) the system to be replaced or upgraded was constructed before January 1, 1977;

(2) the system to be replaced or upgraded was not constructed with funds from state or federal water pollution control funds; and



(3) the system to be replaced or upgraded does not serve a seasonal residence;

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

H. a statement from the municipality that it has an inspector on staff or under contract for services, including documentation of approval under part 7075.1440.

**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 must be postmarked by the noticed application closing date.

**Subp. 5. Incomplete applications.** Municipalities that submit applications that do not include the information required in subparts 2 and 3 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 116.18 subd 3c para (f)*

**History:** *13 SR 1822*

#### 7075.1460 ELIGIBLE COSTS.

**Subpart 1. Eligible costs.** Only the actual construction costs of upgrading or replacing failed individual on-site wastewater treatment systems that have been identified under part 7075.1430, subpart 3, item D, are eligible.

**Subp. 2. Ineligible costs.** All nonconstruction costs including planning, engineering and design, site evaluation and soil investigation, inspection, and administrative costs are ineligible.

**Subp. 3. Number of systems limitation.** The eligibility of costs for a treatment site is limited to either a trench or bed system or a mound system under part 7075.1470, subpart 1.

**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 municipality has developed and adopted a wastewater treatment plan as described in part 7075.1430 before construction costs are incurred by the owner of the individual system;

B. the owner's system is specifically identified on the municipality's wastewater treatment plan; and

C. the municipality submits a complete and timely application, during the first noticed application period under part 7075.1450, subpart 1, following the adoption of the wastewater treatment plan.

**Statutory Authority:** *MS s 116.18 subd 3c para (f)*

**History:** *13 SR 1822*

#### 7075.1470 AMOUNT OF THE GRANT AWARD.

**Subpart 1. Grant amount.** The amount of the grant will be 50 percent of the actual eligible costs under part 7075.1460 up to a maximum grant of \$2,500 per trench or bed system and \$3,750 per mound system.

**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 on-site wastewater treatment systems grant funding is available, until the full amount of the grant is awarded.

**Statutory Authority:** *MS s 116.18 subd 3c para (f)*

**History:** *13 SR 1822*

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## 7075.1480 PRIORITY RANKING.

Municipalities that meet the requirements of parts 7075.1420 to 7075.1450 will be ranked for funding priority from lowest median household income to highest median household income, with the lowest median household income receiving the highest priority.

**Statutory Authority:** *MS s 116.18 subd 3c para (f)*

**History:** *13 SR 1822*

## 7075.1490 CERTIFICATION OF AWARD.

Subpart 1. **Funding list.** The commissioner will prepare a list of municipalities eligible to receive grant funding under this program.

Subp. 2. **Public participation.** The following provisions govern public participation:

A. The commissioner will prepare an individual on-site wastewater treatment systems grants funding list and make it available to the public at least 45 days before adoption. The commissioner shall mail a free copy of the proposal to any interested person upon request.

B. The commissioner will give affected municipalities at least 45 days notice of the agency board meeting at which the funding proposal will be acted upon.

C. Interested persons may present oral statements at the agency board meeting. The chair may place reasonable restrictions upon the time and manner in which oral comments are submitted. Written statements must be received by the agency board at least five days before the meeting.

Subp. 3. **Certification to authority.** The commissioner will certify to the authority the individual on-site wastewater treatment systems grants program funding list approved by the agency.

**Statutory Authority:** *MS s 116.18 subd 3c para (f)*

**History:** *13 SR 1822*

## 7075.1500 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 a designer using data from a site evaluator.

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.

**Statutory Authority:** *MS s 116.18 subd 3c para (f)*

**History:** *13 SR 1822*

## 7075.1510 PAYMENTS.

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

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

Subp. 3. **Documentation.** Before payment of any part of the grant is made, the municipality must submit copies of the following documents for each individual system:

A. invoices documenting incurred construction costs;

B. documentation that the system was designed by a designer using data from a site evaluator;

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C. documentation that the system was upgraded or replaced by an installer; and

D. documentation that the system was inspected and approved by the municipality's inspector.

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 116.18 subd 3c para (f)*

**History:** *13 SR 1822*

## 7075.1520 TERMINATION OF GRANT.

Failure of the municipality to comply with the construction schedule contained in the grant agreement constitutes grounds for the commissioner to recommend that the authority terminate the grant.

**Statutory Authority:** *MS s 116.18 subd 3c para (f)*

**History:** *13 SR 1822*

## 7075.1530 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 7075.1430, subpart 2, in the awarded grant.

**Statutory Authority:** *MS s 116.18 subd 3c para (f)*

**History:** *13 SR 1822*

## CONSTRUCTION LOAN PROGRAM

### 7075.2000 APPLICATION FOR CONSTRUCTION LOAN PROGRAM.

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

Minnesota Pollution Control Agency

Division of Water Quality

Application for Disposal System Planning  
and/or Construction Loan

To be filled in by  
the State

Date Received\_\_\_\_\_

Project Number\_\_\_\_\_

Loan Request\_\_\_\_\_

Legal Name of Applicant

Address, Zip Code

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

Financial Aspects:

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Estimated Project Cost	\$ _____
State Loan Funds	_____
Local Funds	_____
Other Funds	_____
Project Schedule:	
Project Starting Date	_____
Time to Complete Project	_____

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

- A. resolution of the governing body authorizing the filing of the application and designating the municipal official authorized to sign the application;
- B. resolution of the governing body of the municipality obligating the municipality to repay the loan to the state treasurer in annual installments including both principal and interest, each in an amount sufficient to pay the amount due within five years from user charges, taxes, special assessments, or other funds available to it;
- C. resolution of the governing body of the municipality obligating the municipality to establish rates and charges or the execution of contracts sufficient to produce the revenues pledged if required by the agency;
- D. proposed method of loan repayment; and
- E. proposed contracts for engineering, legal, planning, and other consulting services.

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

- A. The attachments of subpart 2, items A, B, and D and part 7075.0414, subpart 6. The commissioner for just cause may waive or defer the submission of any items required pursuant to part 7075.0414, subpart 6 if the items are EPA requirements.
- B. Resolution of the governing body of the municipality obligating the municipality to repay the loan to the state treasurer in annual installments including both principal and interest, each in an amount sufficient to pay the principal amount within 20 years or a shorter time interval if the amount of the annual payment will not justify the administrative expenses of processing the payment, from user charges, taxes, special assessments, or other funds available to it.

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

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

**Statutory Authority:** *MS s 115.03 subd 1 para (c); 116.16*

**History:** *8 SR 694; 10 SR 278; L 1987 c 186 s 15*

#### **7075.2100 ADMINISTRATION OF CONSTRUCTION LOAN PROGRAM.**

**Subpart 1. Allocation of state funds.** The allocation of state funds shall be established in accordance with parts 7075.0403 to 7075.0406 and priority rating points assignable to loan applications shall be established in accordance with part 7075.2200. Funds allocable to loans shall be determined each fiscal year by the agency on the basis of total availability and demand for grants.

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

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

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

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

**Statutory Authority:** *MS s 115.03 subd 1; 116.16*

**History:** *8 SR 694*

#### **7075.2200 CRITERIA FOR DETERMINING LOAN PRIORITY.**

**Subpart 1. Order of priority for planning loan applications.** The determination of the order of priority for planning loan applications shall comply with the criteria in parts 7075.0403 to 7075.0406. Rating points shall be awarded to a municipality by summing up the applicable percentage points for the project from the tables in part 7075.0428, subpart 4, items A, B, and C.

**Subp. 2.** [Repealed, 10 SR 278]

**Subp. 3.** [Repealed, 10 SR 278]

**Subp. 4.** [Repealed, 10 SR 278]

**Subp. 5. Construction loans.** The determination of the order of priority for construction loan applications shall comply with parts 7075.0403 to 7075.0406.

**Statutory Authority:** *MS s 115.03 subd 1 para (c); 116.16*

**History:** *8 SR 694; 10 SR 278*

#### **WATER POLLUTION CONTROL REVOLVING FUND PROGRAM**

##### **7075.2505 PURPOSE.**

The water pollution control revolving fund program provides loans and other forms of financial assistance to municipalities for the construction of publicly owned wastewater treatment facilities according to the provisions of Title VI of the Federal Water Pollution Control Act and Minnesota Statutes, section 446A.07. The program is jointly administered by the Minnesota Pollution Control Agency and the Minnesota Public Facilities Authority. Parts 7075.2505 to 7075.2550 provide for the agency's responsibilities for the administration of the program.

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**Statutory Authority:** *MS s 446A.07 subd 11*

**History:** *13 SR 1690*

### 7075.2510 DEFINITIONS.

Subpart 1. **Scope.** For the purpose of parts 7075.2505 to 7075.2550, the following terms have the meanings given them. Other terms defined in part 7075.0200 have the meanings given in that part.

Subp. 2. **Act.** "Act" means the Federal Water Pollution Control Act, United States Code, title 33, sections 1251 to 1387.

Subp. 3. **Agency.** "Agency" means the Minnesota Pollution Control Agency.

Subp. 4. **Authority.** "Authority" means the Minnesota Public Facilities Authority.

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

Subp. 6. **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 will 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 to be funded during the fiscal year.

Subp. 7. **Municipal needs list.** "Municipal needs list" means the list developed and maintained by the agency according to part 7075.0402 that lists in priority order municipalities that have a need for new or upgraded wastewater disposal systems.

Subp. 8. **Municipality.** "Municipality" means any county, city, or town, the Metropolitan Waste Control Commission established in Minnesota Statutes, chapter 473, the Metropolitan Council when acting under that chapter or an Indian tribe or an authorized Indian tribal organization, and 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.

**Statutory Authority:** *MS s 446A.07 subd 11*

**History:** *13 SR 1690*

### 7075.2515 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 3. The agency will amend the intended use plan to add additional eligible projects as necessary.

Subp. 2. **Eligibility.** To be eligible for placement on the intended use plan, a municipality's project must be listed on the current municipal needs list or, if the municipality is seeking refinancing, the project must have been listed on the municipal needs list before the beginning of construction and meet the requirements of Minnesota Statutes, section 446A.07, subdivision 8, clause (1).

Subp. 3. **Requirements for placement on the intended use plan.** To be placed on the intended use plan, a municipality must meet the requirements of items A and B.

A. 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) a project cost estimate; and

(3) a proposed project schedule, including the date for submittal of a complete financial assistance application in conformance with the requirements of part 7075.2520.

B. For a Step 3 project, a municipality must first receive the commissioner's approval of its facilities plan 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.

**Statutory Authority:** *MS s 446A.07 subd 11*

**History:** *13 SR 1690*

#### 7075.2520 APPLICATIONS.

**Subpart 1. Timing and form of application.** A municipality identified on the intended use plan may submit an application for financial assistance according to the municipality's schedule submitted under part 7075.2515, subpart 3, item A, subitem (3). Applications must be submitted to the executive director of the authority on forms provided by the authority.

**Subp. 2. Step 1 financial assistance.** In addition to any other information required by the authority, a municipality applying for Step 1 financial assistance shall include the following items for the commissioner's review and approval as part of its application:

A. a plan of study outlining the scope of work that will lead to an approvable facilities plan;

B. a schedule for completion of the facilities plan;

C. an engineer's certificate of adequate errors and omissions insurance;  
and

D. if more than one municipality is involved in the application, the municipalities shall submit an agreement indicating their intent to participate in joint treatment, outlining each municipality's responsibilities during planning and setting forth the cost-sharing methodology.

**Subp. 3. Step 2 financial assistance.** In addition to any other information required by the authority, a municipality applying for Step 2 financial assistance shall include the following items for the commissioner's review and approval as part of its application:

A. a schedule for completion of all Step 2 work;

B. an engineer's certificate of adequate errors and omissions insurance;

C. a treatment agreement for each major contributing industry that will discharge wastewater to the new or upgraded system; and

D. if more than one municipality is involved in the application, the requirements of items A to C must be submitted for each municipality involved in the project. In addition, the municipalities shall submit an unexecuted inter-municipal agreement that sets forth the terms and conditions of joint treatment and the cost-sharing methodology.

**Subp. 4. Step 3 financial assistance.** In addition to any other information required by the authority, a municipality applying for Step 3 financial assistance shall include the following items for the commissioner's review and approval as part of its application.

A. Project plans and specifications including documents that contain the requirements under which a bidder submits a bid for performing the work and the contractual requirements and detailed requirements. The documents that comprise the plans and specifications must conform to generally accepted engineering practices, applicable state statutes and rules, and applicable requirements of the act.

B. A sewer service charge system comprised of a user charge system and a system providing for dedicated sources of revenue to pay for the municipality's costs of construction and to retire the municipality's debt costs attributable to the wastewater treatment works to be constructed. The user charge system must

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ensure the sufficient generation of revenue to offset the annual costs of operation, maintenance, and replacement of the treatment works and must charge each user class a fee proportional to the contribution of each user class to the total wastewater loading. The user classes include residential, commercial, industrial, institutional, and governmental classes. The system providing for dedicated sources of revenue to pay for the municipality's costs of construction and to retire the municipality's debt costs need not be proportionally assessed against each user class, but the manner in which the charge will be distributed must be described.

C. Documentation of how the public has been informed of the proposed sewer service charge system.

D. A sewer use ordinance to control discharges to the disposal system throughout the jurisdiction of the municipality.

E. A schedule for completion of all Step 3 work.

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

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

G. An engineer's certificate of adequate errors and omissions insurance.

H. An engineering contract for all Step 3 work.

I. A certification from the municipality that its consulting engineer or the engineer's agent will be present on site during the hours of construction for purposes of inspection and will submit written reports to the agency upon request describing the type of construction inspected and the time involved in inspection after construction commences.

J. A certification from the municipality that its consulting engineer will provide the following services during the first year following initiation of operation:

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

(2) train or provide for training of operating personnel and prepare curricula and training material for operating personnel;

(3) revise the operation and maintenance manual based on actual operating experience obtained during the one-year start-up period; and

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

K. A certification from the municipality that it will comply with the performance certification requirements in part 7075.2545.

L. A treatment agreement with each major contributing industry that will discharge wastewater to the new or upgraded system.

M. A cost breakdown of all project work to be funded under the revolving fund program.

N. If more than one municipality is involved in the application, an executed intermunicipal agreement that sets forth the terms and conditions of joint treatment and the cost-sharing methodology.

**Statutory Authority:** *MS s 446A.07 subd 11*

**History:** *13 SR 1690*



**7075.2525 APPLICATION CERTIFICATION.**

Subpart 1. **Step 1 projects.** Upon review and approval of the documents required by part 7075.2520, 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 application to the authority.

Subp. 2. **Step 2 projects.** Upon review and approval of the documents required by part 7075.2520, 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 application to the authority.

Subp. 3. **Step 3 projects.** Upon review and approval of the documents required by part 7075.2520, subpart 4, completion of items A and B, 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 application to the authority.

A. The environmental review requirements of chapter 4410, Minnesota Statutes, chapter 116D, and title VI of the act have been satisfactorily met.

B. The municipality has obtained a state disposal system permit and, if necessary, a national pollutant discharge elimination system permit from the agency for the project.

**Statutory Authority:** *MS s 446A.07 subd 11*

**History:** *13 SR 1690*

**7075.2530 CHANGE ORDERS.**

A municipality proposing to make changes in a project that substantially alters the type or reliability of the treatment process shall submit to the commissioner such information as the commissioner requires to determine the impact of the proposed change on the environment. Changes in the project that substantially alter the type or reliability of the treatment process must be approved by the commissioner before the change is made. The commissioner shall review the proposed change in the same manner as the original project was reviewed for compliance with applicable pollution control requirements. A substantial change in the type or reliability of the treatment process implemented without prior approval from the commissioner constitutes grounds for the commissioner to request that the authority terminate the loan agreement.

Change orders for changes that do not substantially alter the type or reliability of the treatment process do not require prior approval of the commissioner, but must be submitted to the commissioner as soon as possible.

**Statutory Authority:** *MS s 446A.07 subd 11*

**History:** *13 SR 1690*

**7075.2535 INSPECTIONS.**

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

**Statutory Authority:** *MS s 446A.07 subd 11*

**History:** *13 SR 1690*

**7075.2540 STEP 3 REPORTING REQUIREMENTS.**

Subpart 1. **Sixty days before completion of construction.** At least 60 days before the scheduled contract date for completion of construction, the municipality shall submit to the commissioner:

A. evidence that the municipality has hired a wastewater treatment works operator having a valid state certificate; and

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

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Subp. 2. **Within 45 days following completion of construction.** No later than 45 days after the completion of construction, the municipality shall submit to the commissioner:

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

B. evidence that the agency approved sewer use ordinance and the sewer service charge system with updated cost revisions have been adopted; and

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

**Statutory Authority:** *MS s 446A.07 subd 11*

**History:** *13 SR 1690*

### 7075.2545 PERFORMANCE CERTIFICATION.

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. **One year after initiation of operation.** 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 performance standards identified in the permit;

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

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

Subp. 3. **Corrective action report.** If the commissioner or the municipality determines that the project does not meet the project performance standards identified in the permit, the municipality shall submit a corrective action report that includes:

A. an analysis of the project's failure to meet the performance standards;

B. an estimate of the nature, scope, and cost of the corrective action necessary to bring the project into compliance; and

C. a schedule for undertaking, in a timely manner, the corrective action necessary to bring the project into compliance.

**Statutory Authority:** *MS s 446A.07 subd 11*

**History:** *13 SR 1690*

### 7075.2550 REQUEST TO WITHHOLD FINANCIAL ASSISTANCE PAYMENTS.

Failure of a municipality's project to conform substantially to approved plans and specifications or failure of a municipality to comply with the requirements of part 7075.2540 or 7075.2545 constitutes grounds for the commissioner to request that the authority withhold payments to the municipality. Once an agreement for correcting the condition leading 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 the agency's responsibilities for the administration of the program.

**Statutory Authority:** *MS s 446A.07 subd 11*

**History:** *13 SR 1690*

### 7075.4900 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.

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**Statutory Authority:** *MS s 115.03 subd 1; 116.16*

**History:** 8 SR 694

### 7075.5000 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 in accordance with Minnesota Statutes, section 116.07, subdivision 5, and other applicable statutes and rules.

**Statutory Authority:** *MS s 115.03 subd 1; 116.16*

**History:** 8 SR 694