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7077.0100 PURPOSE.

This chapter provides for the Minnesota Pollution Control Agency's administration of financial assistance programs for the construction of municipal wastewater and stormwater treatment systems. The programs in this chapter, which are jointly administered by the agency and the authority, are:

A. the financial assistance program, consisting of:

- (1) the wastewater infrastructure fund, Minnesota Statutes, section 446A.072;
- (2) the state revolving fund, Minnesota Statutes, section 446A.07;
- (3) the state independent grants program under Minnesota Statutes, section 116.18, subdivision 3a; and

B. the individual sewage treatment systems grants program under Minnesota Statutes, section 116.18, subdivision 3c.

Parts 7077.0105 to 7077.0292 apply to the agency's responsibilities under the financial assistance program.

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

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

History: *15 SR 288; 17 SR 3097; 21 SR 482; 30 SR 923*

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7077.0105 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of chapter 7077, the terms defined in this part and in Minnesota Statutes, chapters 115 and 116, have the meanings given them.

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

Subp. 3. **Adequate errors and omissions insurance.** "Adequate errors and omissions insurance" means an insurance policy that provides the minimum amount of coverage for the corresponding estimated project construction cost, as determined from the following table, and that is maintained for a minimum of two years after initiation of operation of the project.

| Estimated project construction cost | Minimum amount of coverage |
|-------------------------------------|----------------------------|
| less than \$1,000,000 | \$250,000 |
| \$1,000,000 to \$2,999,999 | \$500,000 |
| \$3,000,000 to \$9,999,999 | \$1,000,000 |
| \$10,000,000 or over | \$2,000,000 |

Subp. 4. [Repealed, 17 SR 3097]

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

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

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

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

Subp. 8a. [Repealed, 38 SR 444]

Subp. 8b. **Beneficial use of wastewater.** "Beneficial use of wastewater" means the use of effluent from a wastewater treatment plant that reduces or replaces the use of groundwater, surface water, or potable water.

Subp. 8c. **Best management practices or BMP's.** "Best management practices" or "BMP's" has the meaning given under part 7090.0080, subpart 2.

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

Subp. 9a. **Collection facilities.** "Collection facilities" means that part of a wastewater treatment system that collects and transports wastewater, including sewers, lift stations, conveyance systems, interceptors, temporary storage basins, and related facilities.

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

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

Subp. 11a. **Discharge monitoring report.** "Discharge monitoring report" means the monthly report that contains information about the wastewater entering, treated, and discharged from a

wastewater treatment system and that is submitted by a municipality to the commissioner as required by an NPDES or SDS permit.

Subp. 11b. **Environmental information worksheet.** "Environmental information worksheet" means a form prescribed by the commissioner describing a proposed clean water revolving fund project.

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

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

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

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

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

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

Subp. 14a. [Repealed, 30 SR 923]

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

Subp. 15a. **Impaired waters.** "Impaired waters" means surface waters that the agency has placed on an impaired waters inventory list for not meeting applicable water quality standards under chapters 7050 and 7052. Impaired waters appear on the inventory list under various categories of impairment: pending completion of a TMDL; where a TMDL has been approved; or where a TMDL is currently not required. The United States Environmental Protection Agency approves the list of waters that require a TMDL in accordance with section 303(d) of the Clean Water Act; approves the TMDL's; and approves the agency's listing of waters for which a TMDL is currently not required.

Subp. 16. [Repealed, 17 SR 3097]

Subp. 16a. **Individual sewage treatment system.** "Individual sewage treatment system" has the meaning given in part 7080.0020, subpart 21.

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

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

Subp. 18a. **Initiation of operation.** "Initiation of operation" means the date on which all components of the stormwater treatment system or the wastewater treatment system and all individual sewage treatment systems within a project service area are complete and functioning and the project begins operating for the purposes for which it was planned, designed, and built.

Subp. 19. **Intended use plan.** "Intended use plan" means the document prepared annually by the authority under Minnesota Statutes, section 446A.07, subdivision 4.

Subp. 19a. **Lake.** "Lake" means an enclosed basin filled or partially filled with standing fresh water with a maximum depth greater than 15 feet. A lake may have no inlet or outlet, an inlet or outlet, or both. If a different definition of lake is adopted in chapter 7050, that definition applies to this chapter.

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

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

Subp. 20. [Repealed, 17 SR 3097]

Subp. 21. [Repealed, 17 SR 3097]

Subp. 21a. **Maximum impact zone.** "Maximum impact zone" means a standardized area with the highest density of unsewered structures that allows the impact of wastewater discharged by individual sewage treatment systems to be compared between project service areas. The maximum impact zone is the smallest circle which can be drawn which contains 90 percent of the structures with wastewater flows in a project service area.

Subp. 22. [Repealed, 17 SR 3097]

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

Subp. 23. [Repealed, 17 SR 3097]

Subp. 24. **Municipality.** "Municipality" means any county, city, town, the Metropolitan Council Environmental Services, the Metropolitan Council when acting under chapter 473, an Indian tribe or an authorized Indian tribal organization, or any other governmental subdivision of the state responsible by law for the prevention, control, and abatement of water pollution in any area of the state.

Subp. 25. **Need.** "Need" means a new or upgraded wastewater treatment system is necessary for a municipality to comply with chapter 7041, 7050, 7060, or 7080. "Need" also means that treatment and disposal systems are necessary to improve water quality and reduce pollution caused by stormwater runoff as determined by a local water plan, an area-wide assessment, NPDES permit requirements, or other water quality based reason defined by a need assessment produced by the applicant.

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

Subp. 26. **NPDES permit.** "NPDES permit" means a national pollutant discharge elimination system permit issued by the agency that authorizes under certain conditions the discharge of pollutants to surface waters of the state. Combined NPDES/SDS permits issued by the agency will be considered NPDES permits under this chapter.

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

Subp. 28. **Outstanding resource value water or ORVW.** "Outstanding resource value water" or "ORVW" means a water defined in part 7050.0255, subpart 27.

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

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

Subp. 31. **Performance certification.** "Performance certification" means a certification made by a municipality one year after initiation of operation that states its newly constructed wastewater or stormwater treatment system is meeting performance standards, as specified under part 7077.0288.

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

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

Subp. 33. [Repealed, 17 SR 3097]

Subp. 33a. **Project priority list.** "Project priority list" means the priority list prepared by the commissioner under parts 7077.0115 to 7077.0121.

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

Subp. 34. [Repealed, 17 SR 3097]

Subp. 35. [Repealed, 17 SR 3097]

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

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

Subp. 36. [Repealed, 17 SR 3097]

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

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

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

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

Subp. 40. [Repealed, 17 SR 3097]

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

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

Subp. 41b. **Stormwater.** "Stormwater" means precipitation runoff, stormwater runoff, snow melt off, and any other surface runoff and drainage.

Subp. 41c. **Stormwater project plan.** "Stormwater project plan" means the plans, studies, and reports necessary to determine stormwater treatment needs of a project service area, to systematically evaluate stormwater treatment alternatives that shall result in water quality improvement, and to identify the best management practices to be implemented.

Subp. 41d. **Stormwater treatment system.** "Stormwater treatment system" means a device, method, system or systems designed to reduce, store, treat, separate, stabilize, or dispose of stormwater for purposes of preventing or abating pollution or maintaining or improving water quality.

Subp. 42. [Repealed, 17 SR 3097]

Subp. 42a. **Total maximum daily load or TMDL.** "Total maximum daily load" or "TMDL" means a total maximum daily load established by the agency and approved by the United States Environmental Protection Agency under section 303(d) of the federal Clean Water Act.

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

Subp. 43a. **Treatment facilities.** "Treatment facilities" means that part of a wastewater treatment system which is designed to treat, stabilize, or dispose of wastewater.

Subp. 43b. **Trout waters.** "Trout waters" has the meaning given in part 7050.0420.

Subp. 44. **Unanticipated site condition.** "Unanticipated site condition" means any subsurface, latent or unknown physical condition at the construction site, which differs materially from those ordinarily encountered and generally recognized as inherent in work of the type provided for in the

construction contract that could not have been reasonably identified during the planning or design of the project.

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

Subp. 46. [Repealed, 17 SR 3097]

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

Subp. 48. **Wastewater treatment system.** "Wastewater treatment system" means a system which includes both collection and treatment facilities. An individual sewage treatment system which includes both collection and treatment facilities is a wastewater treatment system.

Subp. 49. **Water use classification.** "Water use classification" means the classifications listed under part 7050.0140.

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

Statutory Authority: *MS s 115.03; 116.07; 116.182; 446A.07*

History: *15 SR 288; 17 SR 3097; 21 SR 482; 21 SR 1642; 30 SR 923; 38 SR 444; 15 SR 288; 17 SR 3097; 21 SR 482; 21 SR 1642; 30 SR 923; 38 SR 444; 41 SR 545*

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7077.0110 [Repealed, 17 SR 3097]

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7077.0111 [Repealed, 30 SR 923]

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PROJECT PRIORITY PROCESS FINANCIAL ASSISTANCE PROGRAM

7077.0115 PROJECT PRIORITY LIST.

Subpart 1. **Requirement.** The commissioner shall develop and maintain a project priority list of projects for municipalities that have a need for a new wastewater treatment system; improvement, rehabilitation, expansion, or replacement of an existing wastewater treatment system; or a stormwater treatment system.

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

Subp. 3. **Request for placement on list.** To be placed on the project priority list, a municipality must submit a written request to the commissioner on forms prescribed by the commissioner for eligibility review under subpart 4 and for assignment of priority points. A municipality that does not submit information necessary for eligibility review under subpart 4 shall be placed on the list with total points equal to one until the information is provided or until removed under subpart 6.

Subp. 4. **Eligibility review.** The commissioner shall review each request and take the action specified in items A to D.

A. Projects involving improvement, rehabilitation, expansion, or replacement of existing wastewater collection or treatment facilities in areas served by a wastewater treatment system that has an NPDES or SDS permit shall be added to the project priority list if the commissioner finds that a need currently exists or shall exist within the next five years.

B. Projects involving new wastewater collection or treatment facilities, in areas not served by a permitted wastewater treatment system that has an NPDES or SDS permit, shall be added to the project priority list only if the commissioner finds that a need currently exists.

C. To be placed on the project priority list, stormwater treatment system projects must meet the following conditions:

(1) the project addresses water quality needs. Ponds for water quality may also include associated flood control benefits;

(2) the project consists of permanent stormwater treatment system structures; and

(3) the project is based on accepted engineering practices that result in water quality benefits. Determination as to acceptability will be based on reasonable assurance of providing water quality benefits.

D. Projects that do not meet the criteria in item A, B, or C, as applicable, shall not be added to the project priority list. The commissioner shall notify the municipality of the reasons for the determination not to place a project on the list.

Subp. 5. **Recalculation of total points.** Total points shall be recalculated when new information and a request for recalculation are submitted to the agency by the applicant.

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

Statutory Authority: *MS s 115.03; 116.07; 116.182; 446A.07*

History: *15 SR 288; 17 SR 3097; 21 SR 482; 30 SR 923; 38 SR 444*

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7077.0116 PRIORITY POINTS FOR TYPES OF PROJECTS.

Subpart 1. **Improved or expanded existing permitted sewer systems.** Projects involving improvement, rehabilitation, expansion, or replacement of wastewater treatment or collection facilities in areas served by existing wastewater treatment systems that have an NPDES or SDS permit shall be assigned priority points under part 7077.0117.

Subp. 2. **New wastewater facilities in unsewered areas.** Projects involving new wastewater collection or treatment facilities, in areas not served by a permitted wastewater treatment system that has an NPDES or SDS permit, shall be assigned priority points under part 7077.0118.

Subp. 3. **Projects involving both existing permitted sewer systems and new facilities in unsewered areas.** If a project involves elements that fall within both subparts 1 and 2, the elements of the project that involve new collection or treatment facilities in previously unserved areas shall be divided from the other elements of the project, and the two portions of the project shall be separately scored under the appropriate subpart.

Subp. 4. **Stormwater projects.** Stormwater projects shall be assigned priority points under part 7077.0119.

Subp. 5. **Assignment of points by commissioner.** The commissioner shall determine the number of points to be assigned under parts 7077.0116 to 7077.0119 based on the information provided by the municipality proposing the project.

Subp. 6. **Rounding of points.** In calculating the number of points assigned to a project under parts 7077.0116 to 7077.0119, any fraction of a point shall be rounded up to the nearest whole number of points.

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

History: *30 SR 923*

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7077.0117 POINTS FOR PROJECTS WITH EXISTING NPDES OR SDS PERMIT.

Subpart 1. **Flow capacity.** Five points shall be assigned to a project if the project involves a treatment facility addressed by the project that is operating at or above 85 percent of its NPDES or SDS permitted hydraulic flow or organic loading capacity, or a collection facility that is operating at or above 85 percent of its hydraulic design capacity, or both, and if the project would expand capacity or reduce loadings so that the facility will operate at less than 85 percent of its capacity.

A. For treatment facilities, actual measured flows and loadings over the last 12 months shall be compared to the permitted average wet weather flow or if not available, to the permitted average annual flow and design loadings. "Average annual flow" means daily average flow measured over 365 consecutive days.

B. For collection facilities, actual measured peak flows shall be compared to the documented hydraulic design peak instantaneous wet weather flow of the pipe section or other component, or written documentation of other physical conditions, such as bypassing events occurring at less than

design peak instantaneous wet weather flow, shall be submitted, which comparison or documentation shows that the facilities are operating at or above 85 percent of their hydraulic design capacity.

Subp. 2. **Age of facilities.** Twenty points shall be assigned to a project if construction of all or a substantial portion of the existing facility addressed by the project was completed more than 20 years before the date the agency received the request for priority listing of the project proposal.

Subp. 3. **Excessive infiltration or inflow.** Fifteen points shall be assigned if the existing facility has excessive infiltration or inflow and the project proposal includes measures to correct the excessive infiltration or inflow.

Subp. 4. **Land discharge.** Twenty points shall be assigned under this subpart for a project that meets either or both of the requirements in items A and B.

A. The project involves an existing facility that land discharges treated wastewater effluent and will continue to land discharge after project implementation, provided that the land discharge has not caused or contributed to, and is not projected to cause or contribute to, any release of nitrate into groundwater exceeding ten milligrams per liter.

B. The project proposes a new land discharge of treated wastewater effluent and the project includes consumptive use (nitrogen or volume) spray irrigation or on-land disposal systems that are required by permit to denitrify the effluent.

Subp. 5. **Effluent limit more stringent than secondary treatment.** Ten points shall be assigned if the existing facility is subject to effluent limits for carbonaceous biochemical oxygen demand or total suspended solids that are more stringent than those which must be attained by a secondary treatment facility under part 7050.0211, or has an ammonia, total nitrogen, or phosphorus permit limit.

Subp. 6. **Ponds in karst areas; separation of disposal system from groundwater.** Twenty points shall be assigned under this subpart for a project that meets either or both of the requirements in items A and B.

A. The project will replace or rehabilitate existing stabilization ponds located above karstic geological characteristics. Karstic geological characteristics are sinkholes; dry valleys in areas with humid climates; springs draining carbonate, sulfate, or halide rocks; caves; sinking streams; dissolutionally enlarged joints or bedding planes; grikes; or karren.

B. The project will replace or rehabilitate wastewater treatment facilities involving a disposal facility where the vertical distance from the wastewater discharge point to the seasonally high groundwater table or to the bedrock is less than three feet.

Subp. 7. **Projects with effluent discharge violations.** Five points shall be assigned if the existing wastewater treatment facility is currently in violation of permit effluent limits that exceed the criteria for noncompliance reporting in the NPDES program under Code of Federal Regulations, title 40, section 123.45, appendix A, and the project is designed to remedy the violation.

Subp. 8. **Projects addressing repeated facility failures.** Ten points shall be assigned if a wastewater treatment or collection facility addressed by the project has experienced bypasses, overflows, or surcharges during two or more storm events within a 12-month period when operating at less than peak instantaneous wet weather flow, and if the project is designed to eliminate such failures.

Subp. 9. **Discharges to impaired or outstanding resource value waters.**

A. Five points shall be assigned if the existing facility discharges into an outstanding resource value water, or into an impaired water, or into both types of waters.

B. A project that is assigned points under item A shall be assigned additional points as follows:

(1) five additional points shall be assigned if the existing facility is currently in violation of chronic or acute effluent discharge standards; and

(2) five additional points shall be assigned if the existing facility is experiencing repeated failures as described in subpart 8.

Subp. 10. **Proximity to potable water intake.** Five points shall be assigned if the existing facility discharges into surface water and there is an intake for potable water less than 25 miles downstream from the point of discharge.

Subp. 11. **Endangered or threatened species.** Five points shall be assigned if the existing facility discharges into surface water and the water downstream of the discharge supports any endangered or threatened species listed in parts 6134.0200 to 6134.0400 or designated under Code of Federal Regulations, title 50, section 17.11 or 17.12.

Subp. 12. **New standards more stringent.** Ten points shall be assigned if the project improves the operation of an existing wastewater treatment facility to address one or more of the following circumstances:

A. the discharge limits for the facility have been or will be made more stringent in a modified or reissued agency permit;

B. a permit variance for the facility has been discontinued; or

C. the facility is required to accommodate increased hydraulic flow or organic loading without increasing either the permitted mass or concentration of discharges to receiving waters.

Subp. 13. **Receiving water classification.** Up to seven points shall be assigned based on the classification of the receiving water as provided in this subpart if the existing facility discharges into surface water. If the receiving water has multiple classifications, only the classification with the highest point value under this subpart shall be used.

| Receiving Water Classification | Points |
|--------------------------------|--------|
| 2A | 7 |

| | |
|----------|---|
| 1,2Bd | 5 |
| 2B,2C,2D | 3 |
| 7 | 1 |

Subp. 14. Effluent impact on receiving water.

A. Up to 15 points shall be assigned if the existing facility discharges into a surface water other than a lake or reservoir. The project shall be assigned points for the impact of the effluent discharge on the surface water by multiplying 15 points times the dilution ratio for that facility, which shall be determined in items B and C.

B. The dilution ratio for a facility is calculated by dividing the average low flow of effluent from the facility by the lowest daily average flow of the receiving water measured for seven consecutive days with a once in ten year recurrence interval (7Q10). The average low flow from the facility shall be calculated by averaging the influent flow reported on the discharge monitoring reports for the three consecutive months with the lowest average influent flow within the most recent three climatic years. A climatic year is the period from April 1 of a year until March 31 of the following year.

C. If the dilution ratio calculated for a facility under item B is greater than 1.0, or if the 7Q10 of the receiving water is zero, the dilution ratio for purposes of item A shall be 1.0.

Subp. 15. Project implements corrective measures. Five points shall be assigned to a project if it implements actions that contribute to the correction of a water quality problem identified in one or more of the following studies or an equivalent study:

A. a clean water partnership project pursuant to chapter 7076;

B. an impaired water; or

C. a United States Environmental Protection Agency-approved watershed restoration action strategy pursuant to section 319 of the federal Clean Water Act.

Subp. 16. Project helps meet total maximum daily load for receiving water. Twenty points shall be assigned to the project if the project contributes to the achievement of a total maximum daily load (TMDL). To be considered as contributing to the achievement of a TMDL, the project must:

A. be designed to reduce the discharge of pollutants as specifically required by an agency-approved TMDL implementation plan; or

B. require an NPDES or SDS permit that will require reduced discharge of pollutants based on a TMDL.

Subp. 17. New or expanded discharge; points subtracted. Five points shall be subtracted from the project's priority score if the project involves one or more of the following:

A. a facility that will produce a new or expanded discharge to one or more of the following types of waters:

- (1) outstanding resource value water;
- (2) impaired water; or
- (3) a lake as defined in part 7077.0105, subpart 19a; or

B. a facility that will produce a new or expanded discharge exceeding 200,000 gallons per day to one or more of the following waters:

- (1) waters defined as Class 2A waters under part 7050.0222, subpart 2; or
- (2) wetlands as defined in part 7050.0186, subpart 1a.

For purposes of this subpart, if a reissued permit for a facility incorporates limits on pollutant loading which were frozen in a previous permit, a facility operating under the same limits in the reissued permit shall not be considered to have an expanded discharge.

Subp. 18. **Beneficial use of wastewater.** Thirty points shall be assigned if a project will result in an agency-approved beneficial use of wastewater that results in reducing or replacing the use of groundwater, surface water, or potable water, provided that the project component resulting in the beneficial use of wastewater accounts for at least 20 percent of the total eligible cost of the project. Projects receiving points under subpart 4 for land discharge shall not receive points under this subpart for additional land discharge.

Statutory Authority: *MS s 103F.745; 115.03; 116.182; 446A.07*

History: *30 SR 923; 37 SR 1334; 38 SR 444*

Published Electronically: *July 9, 2014*

7077.0118 PRIORITY POINTS FOR PROJECTS IN UNSEWERED AREAS.

Subpart 1. **Discharges posing threat to public health or safety.** Points shall be assigned to a project by multiplying 45 times the ratio of the number of existing structures with individual sewage treatment systems or other systems that collect and discharge wastewater in the proposed project service area that have the potential to immediately and adversely affect or threaten public health or safety, including any ground surface or surface water discharge or sewage backup into a dwelling or other establishment resulting from the system, to the total number of existing structures with wastewater flows to individual sewage treatment systems or other systems in the proposed project service area as described in part 7080.1500, subpart 4, item A.

Subp. 2. **Discharges that fail to protect groundwater.** Points shall be assigned to a project by multiplying 15 times the ratio of the number of existing structures in the proposed project service area not counted in subpart 1 with individual sewage treatment systems or similar systems that have one or more sewage tanks which obviously leak below the designated operating depth or have less than the required vertical separation as described in part 7080.1500, subpart 4, items D and E, to

the total number of existing structures with individual sewage treatment systems in the proposed project service area.

Subp. 3. **Noncompliance with setback requirements.** Points shall be assigned to a project by multiplying five times the ratio of the number of existing structures with individual sewage treatment systems in the proposed project service area that do not conform to a setback requirement set forth or cited by reference in part 7080.2150, subpart 2, item F, and that were not counted under subpart 1 or 2, to the total number of existing structures with individual sewage treatment systems in the proposed project service area.

Subp. 4. **Proximity of individual sewage treatment systems to impaired or outstanding resource value water.** Five points shall be assigned to a project if one or more existing individual sewage treatment systems in the proposed project service area are located within 500 feet of an outstanding resource value water, an impaired water, or both.

Subp. 5. **Proximity of failing individual sewage treatment systems to outstanding resource value or impaired water.** Five points shall be assigned to a project where one or more of the following systems are located within 500 feet of an outstanding resource value water or an impaired water:

A. individual sewage treatment systems or similar systems that have one or more tanks which obviously leak below the designated operating depth or have less than the required vertical separation as described in part 7080.1500, subpart 4, items D and E; or

B. individual sewage treatment systems or other systems that collect and discharge wastewater that have the potential to immediately and adversely affect or threaten public health or safety, including any ground surface or surface water discharge or sewage backup into a dwelling or other establishment resulting from the system.

Subp. 6. **Density of individual sewage treatment system discharges.**

A. Up to 30 points shall be assigned to a project based on the density of structures with wastewater flows in the proposed project service area.

B. For the purpose of this subpart, density shall be determined by dividing the number of structures with wastewater flows treated by individual sewage treatment systems or similar systems, or other systems that collect and discharge wastewater, in the proposed project service area by the number of acres in the maximum impact zone for the project.

C. The following priority points shall be assigned for a project depending upon the density of structures with wastewater flows as determined under item B:

| Density | Points |
|----------------|--------|
| less than 0.25 | 0 |
| 0.25 to 0.50 | 10 |

| | |
|--------------------------|----|
| greater than 0.50 to 1.0 | 20 |
| greater than 1.0 | 30 |

Subp. 7. **Land discharge.** Twenty points shall be assigned if the project proposes a new land discharge of treated wastewater effluent and the project includes consumptive use (nitrogen or volume) spray irrigation or on-land disposal systems that are required by permit to denitrify the effluent.

Subp. 8. **Project implements corrective measures.** Five points shall be assigned to a project if it implements actions that contribute to correction of a water quality problem identified in one or more of the following studies or an equivalent study:

- A. a clean water partnership project pursuant to chapter 7076;
- B. an impaired water; or
- C. a United States Environmental Protection Agency-approved watershed restoration action strategy pursuant to section 319 of the federal Clean Water Act.

Subp. 9. **Project helps meet total maximum daily load for receiving water.** Twenty points shall be assigned to the project if the project contributes to the achievement of a TMDL. To be considered as contributing to the achievement of a TMDL, the project must:

- A. be designed to reduce the discharge of pollutants as specifically required by an agency-approved TMDL implementation plan; or
- B. require an NPDES or SDS permit that will require reduced discharge of pollutants based on a TMDL.

Subp. 10. **New or expanded discharge; points subtracted.** Five priority points shall be subtracted from the project's priority score if the project involves one or more of the following:

- A. a facility which will produce a new or expanded discharge to one or more of the following types of water:
 - (1) outstanding resource value water;
 - (2) an impaired water; or
 - (3) a lake; or
- B. a facility that will produce a new or expanded discharge exceeding 200,000 gallons per day to one or more of the following water:
 - (1) waters defined as Class 2A waters under part 7050.0222, subpart 2; or
 - (2) wetlands as defined in part 7050.0186, subpart 1a.

Subp. 11. **Beneficial use of wastewater.** Thirty points shall be assigned if a project will result in an agency-approved beneficial use of wastewater that results in reducing or replacing the use of

groundwater, surface water, or potable water, provided that the project component resulting in the beneficial use of wastewater accounts for at least 20 percent of the total eligible cost of the project. Projects receiving points under subpart 7 for land discharge shall not receive points under this subpart for additional land discharge.

Statutory Authority: *MS s 103F.745; 115.03; 116.182; 446A.07*

History: *30 SR 923; 37 SR 1334; 38 SR 444*

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7077.0119 POINTS FOR STORMWATER PROJECTS.

Subpart 1. Discharges to impaired waters.

A. Four points shall be assigned if:

- (1) the stormwater project service area currently discharges into an impaired water; and
- (2) the project reduces the level of the pollutant for which the receiving water is impaired.

B. For the purposes of this part, discharge into a subwatershed that flows into an impaired water is considered a discharge into that impaired water.

Subp. 1a. Discharges to ORVW's or trout waters.

A. Five points shall be assigned if:

- (1) the stormwater project service area currently discharges into an ORVW or a trout water; and
- (2) the stormwater project provides treatment that improves the quality of stormwater discharges.

B. For the purposes of this part, discharge into a subwatershed that flows into ORVW's or trout waters is considered a discharge into that water.

Subp. 2. **Receiving water classification.** Up to seven points shall be assigned based on the classification of the receiving water as provided in this subpart if the stormwater project provides treatment that reduces the quantity or improves the quality of stormwater discharges. If the receiving water has multiple classifications, only the classification with the highest point value under this subpart shall be used.

| Receiving Water Classification | Points |
|--------------------------------|--------|
| 2A | 7 |
| 1,2Bd | 5 |
| 2B,2C,2D | 3 |
| 7 | 1 |

Subp. 3. **Project implements corrective measures.** Five points shall be assigned to a stormwater project if it implements actions that contribute to correction of a water quality problem identified in one or more of the following studies or an equivalent study:

- A. a clean water partnership project pursuant to chapter 7076;
- B. an impaired water; or
- C. a United States Environmental Protection Agency-approved watershed restoration action strategy pursuant to section 319 of the federal Clean Water Act.

Subp. 4. [Repealed, 38 SR 444]

Subp. 5. **New or expanded diversion of stormwater; points subtracted.** Five priority points shall be subtracted from the project's priority score if the project involves a new or expanded diversion of stormwater to one or more of the following types of water or to a subwatershed that flows into that water:

- A. outstanding resource value water;
- B. impaired water;
- C. water defined as a Class 2A water under part 7050.0222, subpart 2;
- D. wetlands as defined in part 7050.0186, subpart 1a; or
- E. a lake as defined in part 7077.0105, subpart 19a.

Subp. 6. **Project helps meet total maximum daily load for receiving water.** Eighteen points shall be assigned if the municipality proposing the project holds a NPDES permit for a municipal separate storm sewer system and is implementing a stormwater pollution prevention program according to Code of Federal Regulations, title 40, section 122.34, that addresses requirements resulting from a total maximum daily load waste load allocation.

Subp. 7. **Impervious surface ratio.** Up to ten points shall be assigned to a stormwater project that addresses impervious surfaces through BMP's. The points are determined by the number resulting from multiplying 20 times the ratio of the project service area's impervious surface area to the total project service area to be served by the proposed BMP's and rounding up numbers with fractions to the next whole number.

Subp. 8. **Volume reduction.** Nine points shall be assigned if the proposed project will result in a stormwater volume reduction from an existing discharge. The proposed project must incorporate volume reduction as a major component of the treatment system, or volume reduction must comprise a majority of the cost of the overall proposal. Qualifying best management practices include:

- A. rain gardens;
- B. bioretention basins;
- C. enhanced swales designed to infiltrate;

- D. tree boxes, if designed to capture a certain volume;
- E. stormwater capture and reuse;
- F. porous pavement, if designed to infiltrate;
- G. green roof technology; or
- H. other similar practices that will result in a stormwater volume reduction from an existing discharge.

Subp. 9. **New treatment systems.** Additional points shall be assigned if the proposed project includes new best management practices that provide treatment to an existing discharge, where the discharge is presently untreated. The number of points shall be awarded based on whether the applicant holds a municipal separate storm sewer system (MS4) NPDES permit that already requires a load reduction based on a total maximum daily load (TMDL):

- A. when an applicant holds an MS4 NPDES permit and is assigned a waste load allocation based on a TMDL, the applicant shall be awarded one point; and
- B. all other eligible applicants shall be awarded 18 points.

Subp. 10. **Multiple environmental benefits.** Six points shall be assigned if the proposed project will result in one or more of the multiple environmental benefits described in items A to F. Eligible projects must include a stormwater treatment system component or best management practice, and another type of environmental benefit that results from the project. Flood control is already a priority goal of stormwater management, so it does not constitute another type of environmental benefit. Qualifying multiple environmental benefits include:

- A. stormwater capture and reuse;
- B. creation of wildlife habitat;
- C. creation of a wildlife corridor or preservation of open or connected green space;
- D. reduced use or need for water, energy, or consumption of other natural resources;
- E. green roof technology that results in measurable reductions to stormwater volume; or
- F. other similar practices that provide multiple environmental benefits.

Subp. 11. **Structural improvements to existing stormwater ponds.** Ten points shall be assigned to a project for structural improvements to an existing stormwater pond that increase or improve stormwater treatment. No points shall be assigned for projects that address only maintenance and do not propose structural improvements.

Statutory Authority: *MS s 103F.745; 115.03; 116.182; 446A.07*

History: *30 SR 923; 37 SR 1334; 38 SR 444*

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7077.0120 [Repealed, 17 SR 3097]

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7077.0121 RANKING OF PROJECTS WITH EQUAL TOTAL NUMBER OF POINTS.

Subpart 1. **Tie breaker based on environmental and human health threat.** When two or more projects on the project priority list have been assigned the same total number of priority points under parts 7077.0116 to 7077.0119, the project that has the highest number of points assigned based upon environmental and human health threats shall be ranked higher. For purposes of this part, points assigned under parts 7077.0117, subparts 6 to 11; 7077.0118, subparts 1 to 5; and 7077.0119, subparts 1, 1a, and 2, are based upon environmental and human health threats.

Subp. 2. **Tie breaker based on population.** If two or more projects remain tied in total priority points after application of subpart 1, the projects shall be ranked in order of the population of the municipalities served by the project as recorded in the last federal census, with the highest population ranked first.

Statutory Authority: *MS s 115.03; 116.182; 446A.07*

History: *30 SR 923; 38 SR 444*

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7077.0155 [Renumbered 7077.0274]

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7077.0265 [Repealed, 17 SR 3097]
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7077.0272 FACILITIES PLAN FOR WASTEWATER TREATMENT SYSTEMS.

Subpart 1. **In general.** Facilities plans for wastewater treatment systems must be prepared and signed by a professional engineer registered in Minnesota, provided that facilities plans for individual sewage treatment systems designed to treat 5,000 gallons or less of wastewater per day must be prepared and signed by either a professional engineer registered in Minnesota or an individual sewage treatment system designer authorized under agency rules to prepare such plans.

Subp. 1a. **Approval by commissioner.** Facilities plans must be submitted to the commissioner for review and approval. Approval shall be based on the commissioner's determination of the adequacy of the facility plan to address the requirements of this part. If the municipality is proposing

to change the selected treatment method or any other major element of a previously approved facilities plan or stormwater project plan, the municipality must receive the commissioner's approval of a facilities plan addendum.

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

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

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

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

D. An analysis of all feasible treatment alternatives that are capable of meeting the applicable effluent, water quality, and public health requirements for 20 years. Where the project service area is currently served by individual sewage treatment systems, the analysis of feasible treatment alternatives must be submitted on a form prescribed by the commissioner. The discussion of the considered alternatives must include:

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

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

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

(4) a comparison of the potential environmental impacts.

E. If the project service area is currently served by individual sewage treatment systems, the facilities plan must include:

(1) a determination of the operating condition of each individual sewage treatment system made by an individual authorized by agency rules to determine the compliance status of individual sewage treatment systems;

(2) a determination of whether each lot in the project service area can support a replacement individual sewage treatment system made by an individual authorized by agency rules to make such a determination; and

(3) an assessment of the suitability of an individual sewage treatment system that would serve multiple dwellings.

The assessment in subitem (3) must be conducted by an individual authorized by agency rules to make such an assessment unless the flow volumes or other circumstances of the system would warrant issuance of an SDS permit, in which case the assessment must be conducted by a registered professional soil scientist or professional engineer.

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

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

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

(3) estimated annual sewer service charges;

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

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

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

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

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

A. a complete list of addresses used for public notice purposes and listed on a form prescribed by the commissioner;

- B. a summary of the information presented and public comments received at a public hearing, required under subpart 3, and the action taken to address those comments;
- C. a formal resolution of the municipality's governing body adopting the facilities plan;
- D. a list of ordinances or intermunicipal agreements necessary for the successful implementation and administration of the project;
- E. a signed treatment agreement with each significant industrial user;
- F. a completed environmental information sheet; and
- G. documentation of notification to other governmental units, summaries of comments received, and county certification as required under Minnesota Statutes, section 116.182, subdivision 3a, clause (5).

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

Subp. 4. [Repealed, 17 SR 3097]

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

Statutory Authority: *MS s 115.03; 116.07; 116.182; 446A.07*

History: *15 SR 288; 17 SR 3097; 30 SR 923; 38 SR 444*

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7077.0274 PLANS AND SPECIFICATIONS FOR WASTEWATER TREATMENT SYSTEMS.

Subpart 1. **In general.** A municipality must submit plans and specifications to the commissioner for review and approval according to part 7077.0280, subpart 4, item A. The plans and specifications must be consistent with the scope of the approved facilities plan under part 7077.0272. The project must be constructed according to the approved plans and specifications and change orders.

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

A. plans and specifications signed by:

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

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

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

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

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

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

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

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

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

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

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

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

Statutory Authority: *MS s 116.07; 116.182*

History: *15 SR 288; 17 SR 3097*

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7077.0276 [Repealed, 30 SR 923]

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7077.0277 STORMWATER PROJECT PLAN.

Subpart 1. **In general.** The stormwater project plan must be prepared and signed by a professional engineer registered in the state of Minnesota.

Subp. 1a. **Approval by commissioner.** Stormwater project plans must be submitted to the commissioner for review and approval. Approval shall be based on the commissioner's determination of the adequacy of the project plan to address the requirements of this part. If the municipality is proposing to change the selected treatment method or any other major element of a previously approved stormwater project plan, the municipality must receive the commissioner's approval of a project plan addendum.

Subp. 2. **Contents.** A stormwater project plan must address items A to F in the amount of detail that is appropriate to describe the project accurately.

A. A complete description of the stormwater collection system, stormwater treatment system if existent, and the identified need in the project service area.

B. A complete description of the project service area including the number of acres served, the estimated flow, and a description of the watershed.

C. A brief narrative describing project alternatives that were considered and a description of how the proposed project was selected.

D. A complete description of the project including location, best management practices to be implemented for the use of stormwater treatment, estimated construction costs, and equipment replacement costs.

E. A description of the long-term maintenance plan including annual operation and maintenance costs and who will be responsible for performing maintenance activities. The maintenance plan must describe the intended life span of any proposed stormwater treatment system.

F. An estimate of the reduction in pollutants. When applicable, the estimate must include any pollutants causing or contributing to the impairments in receiving waters.

Subp. 3. **Stormwater project plan supplement.** In order to obtain the commissioner's approval of a stormwater project plan, the municipality must submit the following items to the commissioner with the stormwater project plan:

A. a completed environmental information worksheet;

B. a complete list of addresses the commissioner will use for a 30-day public notice of a summary of the environmental information worksheet. The addresses used for public notice purposes must be listed on a form prescribed by the commissioner;

C. a summary of the information presented and public comments received at a public hearing, required under subpart 4, and the action taken to address those comments;

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

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

F. a certification from the appropriate county or watershed management organization assuring that the stormwater project plan is consistent with the comprehensive local water plan.

Subp. 4. **Public hearing.** Before adopting the stormwater project plan, the municipality must hold at least one public hearing to discuss the proposed project. The stormwater project plan must be made available for review by interested persons before the date of the hearing. At the public hearing, information must be presented on the various treatment alternatives considered, the reasons for choosing the selected alternative, and the location of the proposed project site.

Statutory Authority: *MS s 115.03; 116.182; 446A.07*

History: *21 SR 482; 30 SR 923; 38 SR 444*

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7077.0278 [Repealed, 30 SR 923]

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7077.0279 PLANS AND SPECIFICATIONS FOR STORMWATER TREATMENT SYSTEMS.

Subpart 1. **In general.** A municipality must submit plans and specifications to the commissioner for review and approval according to part 7077.0280, subpart 4, item D. The plans and specifications must be consistent with the scope of the approved stormwater project plan under part 7077.0277. The project must be constructed according to the approved plans and specifications and change orders.

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

- A. plans and specifications signed by a professional engineer registered in Minnesota;
- B. a summary of design parameters for the stormwater treatment units;
- C. a summary of the stormwater treatment system flow conditions for average design flow and maximum design flow;
- D. a stormwater pollution prevention plan to meet construction stormwater permit requirements during construction of the stormwater treatment systems;
- E. the latest detailed cost estimate, including operation and maintenance costs, based on the plans and specifications submitted; and
- F. administrative, bidding, and contract documents according to the applicable requirements under Minnesota Statutes, including a 100 percent performance bond from the contractors.

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

- A. a project schedule on a form prescribed by the commissioner;
- B. a certification from the municipality that states that full-time resident inspection shall be provided during construction and that written inspection reports, describing the construction inspected, construction problems, and the amount of inspection time required, shall be submitted to the commissioner on a monthly basis; and
- C. finalized and executed intermunicipal agreements necessary for the successful implementation and administration of the project.

Statutory Authority: *MS s 115.03; 116.182; 446A.07*

History: 30 SR 923; 38 SR 444

Published Electronically: January 30, 2024

7077.0280 CERTIFICATION SUBMITTAL REQUIREMENTS.

Subpart 1. **Requirements.** To receive project certification under part 7077.0281, a municipality must submit to the commissioner for review and approval the items under subparts 2 and 4 that are applicable to the project. These items must be submitted within six months from the date that the authority approves an intended use plan which includes the project for which the municipality seeks certification.

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

A. a description of the scope of work and estimated costs that will lead to an approved facilities plan or stormwater project plan;

B. a schedule for completion of the facilities plan or the stormwater project plan on a form prescribed by the commissioner;

C. for wastewater and stormwater treatment projects, a schedule for completion of plans and specifications; and

D. for individual sewage treatment system projects, a copy of a draft ordinance that adopts the requirements of chapter 7080, individual sewage treatment standards.

Subp. 3. [Repealed, 30 SR 923]

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

A. for wastewater treatment systems, plans and specifications as required under part 7077.0274 for the commissioner's review and approval;

B. for wastewater treatment systems, a certification that the municipality has enacted an ordinance that, at a minimum:

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

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

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

C. for individual sewage treatment system projects, a certification that the municipality has enacted and is enforcing an ordinance that:

(1) adopts the requirements of chapter 7080;

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

(3) establishes a maintenance plan; and

D. for stormwater treatment systems:

(1) plans and specifications as required under part 7077.0279 for the commissioner's review and approval;

(2) a project schedule on a form prescribed by the commissioner; and

(3) if applicable, finalized and executed intermunicipal agreements necessary for the successful implementation and administration of the project.

Subp. 5. [Repealed, 30 SR 923]

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

History: *13 SR 1690; 15 SR 288; 17 SR 3097; 21 SR 482; 30 SR 923*

Published Electronically: *January 30, 2024*

7077.0281 COMMISSIONER CERTIFICATION TO AUTHORITY.

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

Subp. 2. [Repealed, 30 SR 923]

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

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

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

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

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

Subp. 3a. **Essential project components.** In certifying a wastewater treatment project under this part, the commissioner shall include a statement of essential project components and associated costs, which shall be based upon the essential project component percentage calculated under this subpart. "Essential project components" are those components of a project that are necessary to

convey or treat a municipality's existing wastewater flows and loadings. Based on information contained in the approved facilities plan submitted under part 7077.0272, the essential project component percentage shall be calculated by multiplying 100 times the number obtained by dividing the total existing daily carbonaceous biochemical oxygen demand (CBOD) mass loading by the proposed total 20-year growth daily CBOD mass loading.

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

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

History: *13 SR 1690; 15 SR 288; 17 SR 3097; 30 SR 923*

Published Electronically: *October 2, 2007*

7077.0284 INSPECTIONS.

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

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

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

Published Electronically: *October 2, 2007*

7077.0286 COMPLETION OF CONSTRUCTION AND INITIATION OF OPERATION; WASTEWATER TREATMENT SYSTEMS.

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

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

B. an operation and maintenance manual or a maintenance plan for the commissioner's approval, or a certificate of completion of an operation and maintenance manual on a form prescribed by the commissioner.

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

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

A. Before initiation of operation will be approved, a prefinal inspection must be held and the commissioner must approve the initiation of operation date. Systems with an NPDES or SDS

permit must also have the items under subpart 1, item A, completed and subpart 1, item B, approved by the commissioner.

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

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

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

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

History: *17 SR 3097; 30 SR 923*

Published Electronically: *February 3, 2012*

7077.0287 COMPLETION OF CONSTRUCTION AND INITIATION OF OPERATION; STORMWATER TREATMENT SYSTEMS.

Subpart 1. **Notification required.** Within ten days following submission of a notice of termination for the construction stormwater permit obtained for the project or, when no permit is required, within ten days of the completion of construction, the municipality must notify the commissioner in writing of the initiation of operation date.

Subp. 2. **Date of initiation of operation.** The date of initiation of operation is the date the notice of termination for the construction stormwater permit for the project is submitted and is the first day of the one-year performance period. When no permit is required, the date of initiation of operation is the date the municipality submitted to the agency as the completion date of construction under subpart 1.

Subp. 3. **Inspection required.** The municipality must notify the commissioner in writing when the municipality is ready to initiate operation and request that an inspection be scheduled. The purpose of the inspection is to ensure that the construction conforms with the approved plans and specifications and any change orders, to identify construction deficiencies, and to set target dates for the completion of construction items.

Subp. 4. **Operation and maintenance manual.** Before completing construction, the municipality must submit to the commissioner an operation and maintenance manual for the stormwater treatment systems implemented by the project.

Statutory Authority: *MS s 115.03; 116.182; 446A.07*

History: *21 SR 482; 38 SR 444*

Published Electronically: *January 30, 2024*

7077.0288 PROJECT PERFORMANCE.

Subpart 1. [Repealed, 15 SR 288]

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

A. A certification on a form prescribed by the commissioner and signed by a professional engineer registered in the state of Minnesota stating that the project meets the following performance standards:

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

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

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

(4) the project facility meets the effluent limitations as assigned in the NPDES or SDS permit;

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

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

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

The certification shall include one copy of "as-built" plans and specifications in a format designated by the commissioner.

B. A revised operation and maintenance manual or revised maintenance plan based on actual operating experience obtained during the one-year performance period, or a certificate of completion of a revised operation and maintenance manual on a form prescribed by the commissioner.

C. Documentation that the municipality is collecting sufficient funds to provide for operation and maintenance and equipment replacement costs in conformance with the approved operation and maintenance manual on a form prescribed by the commissioner.

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

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

(1) the project has been completed according to the approved stormwater project plan and the project is operating as intended;

(2) state revolving fund loan money has only been used for work directly associated with stormwater treatment activities as described in the stormwater project plan;

(3) all pipe outlets have been provided with permanent energy dissipation where the pipe's outlet velocity exceeds the permanent cover's erosive velocity;

(4) an operation and maintenance manual appropriate for the best management practices implemented during the project has been provided to the municipality by the project engineer; and

(5) one copy of "as-built" plans and specifications has been submitted to the commissioner in a format designated by the commissioner; and

B. an evaluation report describing the performance of the project as it pertains to the problems in need of correction identified in the stormwater project plan.

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

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

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

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

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

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

Statutory Authority: *MS s 115.03; 116.07; 116.182; 446A.07*

History: *13 SR 1690; 15 SR 288; 17 SR 3097; 21 SR 482; 30 SR 923; 38 SR 444*

Published Electronically: *January 30, 2024*

7077.0290 COMMISSIONER'S NOTIFICATION OF PERFORMANCE.

The commissioner shall provide written notification about the satisfactory performance of a wastewater treatment project or a stormwater treatment project to the authority upon receipt and approval by the commissioner of the items listed in part 7077.0288, subpart 2, item A, or 2a, item A, as applicable.

Statutory Authority: *MS s 115.03; 116.182; 446A.07*

History: *17 SR 3097; 21 SR 482; 38 SR 444*

Published Electronically: *January 30, 2024*

7077.0292 REQUEST TO WITHHOLD FINANCIAL ASSISTANCE PAYMENTS.

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

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

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

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7077.0300 [Repealed, 30 SR 923]

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7077.0660 [Repealed, 17 SR 3097]

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INDIVIDUAL SEWAGE TREATMENT SYSTEMS GRANTS PROGRAM

7077.0700 PURPOSE.

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

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

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

Published Electronically: *October 2, 2007*

7077.0705 DEFINITIONS.

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

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

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

Subp. 3. [Repealed, 15 SR 288]

Subp. 4. [Repealed, 15 SR 288]

Subp. 5. [Repealed, 15 SR 288]

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

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

Subp. 7. [Repealed, 17 SR 3097]

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

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

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

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

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

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

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

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

Subp. 15. [Repealed, 15 SR 288]

Subp. 16. [Repealed, 17 SR 3097]

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

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

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

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

Subp. 18. [Repealed, 17 SR 3097]

Subp. 18a. **System design costs.** "System design costs" means the expenses charged by an evaluator/designer to complete the necessary calculations for system size, location, materials, and

other items necessary to develop a bed, trench, or mound wastewater treatment system design that conforms to chapter 7080.

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

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

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

Published Electronically: *October 2, 2007*

7077.0710 ELIGIBILITY.

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

Subp. 2. Eligibility of individual sewage treatment systems.

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

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

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

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

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

Subp. 4. **Eligibility of alternative planning area.** The commissioner shall evaluate any written municipal proposal for a project planning area that is less than the municipality's entire geographic

jurisdiction. The commissioner's evaluation of the proposal shall be based on housing density, water quality impact, and public health impact. Separate structures with wastewater flows that are not part of a contiguous area shall not be approved as or part of a planning area.

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

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

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

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

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

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

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

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

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

Published Electronically: *October 2, 2007*

7077.0713 FUNDING LIST.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Subp. 5. **Determination of fundable range.** To determine the fundable range on the funding list, the commissioner shall subtract the estimated grant amount or calculated grant increase for each project, in order of decreased priority, from the amount available in the individual sewage

treatment system grant fund. The projects classified as fundable are those that have their estimated or calculated project costs subtracted before the grant fund amount is depleted or diminished to an amount too small to complete the majority of the project next in priority on the funding list.

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

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

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

Statutory Authority: *MS s 116.18; 116.182*

History: *16 SR 1800; 17 SR 3097*

Published Electronically: *October 2, 2007*

7077.0715 [Repealed, 16 SR 1800]

Published Electronically: *October 2, 2007*

7077.0720 [Repealed, 24 SR 426]

Published Electronically: *October 2, 2007*

7077.0725 GRANT APPLICATION.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Subp. 5. **Incomplete applications.** Municipalities that submit applications postmarked by the application deadline that require additional information to be considered complete under subpart 2, have 45 days from the application deadline to submit the information needed to make the application approvable. If an application is not completed within this 45 days, the municipality is

ineligible for funding. Ineligible municipalities must wait to reapply until the funding list placement requirements have been met and the project has been classified as fundable under part 7077.0713 during a subsequent application cycle.

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

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

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

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

Published Electronically: *October 2, 2007*

7077.0730 ELIGIBLE COSTS.

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

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

Subp. 3. [Repealed, 16 SR 1800]

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

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

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

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

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

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7077.0735 AMOUNT OF GRANT AWARD.

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

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

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

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

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

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

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

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

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

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

Published Electronically: *October 2, 2007*

7077.0740 [Repealed, 16 SR 1800]

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7077.0745 CERTIFICATION OF AWARD.

Subpart 1. **Certification to authority.** The commissioner will certify each individual on-site wastewater treatment system grant application approved under part 7077.0725, subpart 7, and grant

amendment approved under part 7077.0735, subpart 4, to the authority for award. Grant eligible costs, award amounts, and eligible budget periods will be determined at the time of certification.

Subp. 2. [Repealed, 16 SR 1800]

Subp. 3. [Repealed, 16 SR 1800]

Statutory Authority: *MS s 116.07; 116.18*

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

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7077.0750 PAYMENT CONDITIONS.

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

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

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

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

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

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

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

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

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7077.0755 PAYMENTS.

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

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

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

Subp. 4. **Certification of payment.** Within 30 days of agency receipt of payment request, the commissioner will determine whether payment will be made. If the commissioner determines that payment will not be made, the commissioner will advise the municipality of the deficiencies in the

request. If the commissioner determines that payment conditions have been met, the commissioner will certify to the authority that payment should be made.

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

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

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7077.0760 TERMINATION OF GRANT.

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

Statutory Authority: *MS s 116.07; 116.18*

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

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7077.0765 SUBSEQUENT GRANTS.

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

Statutory Authority: *MS s 116.07; 116.18*

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

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PROCEDURAL REQUIREMENTS

7077.2000 DISPUTES.

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

Statutory Authority: *MS s 116.07*

History: *15 SR 288*

Published Electronically: *October 2, 2007*

7077.2005 PROCEDURAL RULES AND APPEALS.

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

Statutory Authority: *MS s 116.07*

History: *15 SR 288*

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7077.2010 VARIANCES.

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

Statutory Authority: *MS s 116.07*

History: *15 SR 288*

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