

1 Pollution Control Agency

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3 Adopted Emergency Amendments to Rules and Adopted Emergency
4 Rules Governing Water Pollution Control Fund and Federal Grants

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6 Emergency Amendments to Rules as Adopted

7 7075.0100 PURPOSE.

8 This chapter provides for the administration of the federal
9 construction grant program, the independent state construction
10 grant program, the state matching construction grant program,
11 and the state loan program for the construction of municipal
12 disposal systems.

13 7075.0200 DEFINITIONS.

14 Subpart 1. and 2. [Unchanged.]

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

17 Subp. 4. to 8. [Unchanged.]

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

24 Subp. 10. to 16. [Unchanged.]

25 Subp. 17. Plans and specifications. "Plans and
26 specifications" includes documents that contain the requirements
27 under which a bidder submits a bid for performing the work and
28 the contractual requirements and detailed requirements. The
29 documents that comprise the plans and specifications must
30 conform with generally accepted engineering practices,
31 applicable state statutes and rules, and applicable requirements
32 of Code of Federal Regulations, title 40, parts 33 and 35.

33 Subp. 18. to 27. [Unchanged.]

34 7075.0400 TYPES OF PROGRAMS.

35 Under this chapter and Minnesota Statutes, section 116.16

8-10-84

1 et seq., the agency may disburse funds from the pollution
2 control fund for the following:

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

5 B. grants to reduce or eliminate the local
6 contribution of a municipality meeting the criteria set forth in
7 part 7075.0425;

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

10 D. loans for the construction of municipal disposal
11 systems.

12 CONSTRUCTION GRANTS PROGRAMS

13 7075.0401 SUMMARY OF CONSTRUCTION GRANTS PROGRAMS.

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

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

19 C. Construction grants are awarded to municipalities
20 on a priority basis. Municipalities with the highest priorities
21 as determined by a point system are awarded construction grants
22 first.

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

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

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

36 G. A municipality on the municipal project list must

1 apply for a construction grant before a grant will be awarded.

2 7075.0405 PRIORITY POINTS FOR TYPE OF PROJECT.

3 Subpart 1. [Unchanged.]

4 Subp. 2. Description of project types. Project types are
5 described as follows:

6 A. New plant. A new tertiary treatment plant is a
7 plant designed to meet tertiary treatment standards for which
8 construction was commenced after July 1, 1983. A new secondary
9 treatment plant is a plant designed to meet secondary treatment
10 standards for which construction was commenced after July 1,
11 1983. Land application systems and stabilization ponds that are
12 proposed as an alternative to tertiary and secondary treatment
13 plants that discharge to waters of the state are considered
14 tertiary treatment and secondary treatment for purposes of
15 project priority. Whether a land application system or
16 stabilization pond is a tertiary or secondary treatment system
17 is determined as based on the effluent limitations applicable to
18 discharges to the receiving water. Subsurface disposal systems,
19 including septic tanks, designed to treat an average daily flow
20 of not more than 1,000 gallons and the drainfield portion and
21 one central septic tank to treat an average daily flow in excess
22 of 1,000 gallons are considered secondary treatment for purposes
23 of project priority.

24 B. Major addition. A major addition to an existing
25 tertiary or secondary treatment plant is an addition that
26 improves effluent quality in order that a municipality achieving
27 less than 90 percent compliance may achieve compliance with
28 applicable NPDES/SDS permit conditions. A major addition also
29 includes major interceptor sewers and sewer system
30 rehabilitation projects.

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

35 (1) transports the wastewater directly to a
36 wastewater treatment facility;

1 (2) transports the wastewater directly to another
2 major interceptor sewer; or

3 (3) transports the wastewater directly to the
4 collector sewer of another municipality.

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

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

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

25 F. Relief sewer. A relief sewer is a sewer primarily
26 designed to eliminate bypassing caused by insufficient hydraulic
27 capacity in separate sewer systems by transporting infiltration
28 or inflow to adequately sized sewers or a wastewater treatment
29 facility for proper treatment. A sewer is a relief capacity
30 sewer and not a relief sewer if its design flow includes more
31 than five percent wastewater or if it has physical connections
32 closer to each other than 1,000 feet. Storm sewer separation is
33 not a relief sewer.

34 G. Relief capacity sewer. A relief capacity sewer is
35 a new sewer designed to handle the normal flow of wastewater and
36 to eliminate bypasses caused by insufficient hydraulic capacity

1 in existing sewers by transporting infiltration and inflow to
2 adequately sized sewers or to a wastewater treatment plant. A
3 relief capacity sewer must be designed to provide future
4 capacity for a minimum of 40 years.

5 H. Collection system or collector sewer. A
6 collection system or collector sewer is a sanitary sewer,
7 including innovative and alternative sewers carrying raw or
8 partially treated wastewater and providing collection system
9 reliability such as alternative power or dual pumps, that is not
10 a major interceptor sewer, a relief sewer, or relief capacity
11 sewer. For treatment works including subsurface disposal
12 systems designed to treat an average daily flow in excess of
13 1,200 gallons, a collection system includes devices such as
14 grinder pumps and septic tanks that will partly treat the
15 wastewater, as well as septic tank effluent pumps and small
16 diameter sewers that will pump and convey the partially treated
17 waste.

18 I. Dechlorination facilities. Dechlorination
19 facilities are facilities that remove chlorine from the effluent.

20 J. Ancillary addition. An ancillary addition to an
21 existing tertiary or secondary treatment plant is an addition
22 that is not a major addition and is not dechlorination
23 facilities such as administrative support facilities and sludge
24 handling capability to comply with state disposal system permit
25 conditions controlling sludge application to land or sludge
26 disposal.

27 K. Addition to previously funded project. An
28 addition to a previously funded project is a project that will
29 bring an existing disposal system that has been funded by a
30 construction grant under the act or applicable state statutes or
31 under the Consolidated Farm and Rural Development Act into
32 compliance with the municipality's existing NPDES/SDS permit
33 without a change in the conditions of the NPDES/SDS permit.

34 L. Modification and replacement of innovative or
35 alternative projects. A modification or replacement of an
36 innovative or alternative project is a project to modify or

1 replace a project that was funded with increased grant funding
2 in accordance with Code of Federal Regulations, title 40,
3 section 35.2032.

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

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

15 B. Relief capacity sewer. A relief capacity sewer is
16 not eligible for priority points under part 7075.0405, subpart
17 1, item B or F unless the municipality has not obtained a
18 construction grant since at least February 11, 1974, and a
19 relief capacity sewer is justified by an infiltration/inflow
20 analysis and sewer system evaluation survey that complies with
21 the requirements of Code of Federal Regulations, title 40,
22 section 35.2120.

23 A relief capacity sewer that qualifies as a major
24 interceptor sewer is considered a major addition to a treatment
25 plant and the municipality proposing the project shall be
26 awarded the priority points under part 7075.0405, subpart 1,
27 item B or F for the entire cost of the project.

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

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

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

35 The component in subitem (2) is considered a major addition
36 to a treatment plant and awarded the priority points under part

1 7075.0405, subpart 1, item B or F and the component in subitem
2 (1) is considered a collector and awarded the priority points
3 under part 7075.0405, subpart 1, item I.

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

11 C. Collection systems or collector sewers. A
12 municipality proposing to undertake a sewer system
13 rehabilitation project or to construct a relief capacity sewer
14 that does not meet the criteria specified in a. and b. must be
15 listed as a separate project on the municipal needs list and
16 awarded the priority points credited to a collection system or
17 collector sewer under part 7075.0405, subpart 1, item I or J.

18 D. Combined sewer overflow. A project for the
19 control of combined sewer overflow is not eligible for priority
20 points under part 7075.0405, subpart 1, item K unless the
21 project is necessary to meet requirements of the municipality's
22 NPDES/SDS permit and the act. In addition, after October 1,
23 1984, combined sewer overflow projects are eligible for funding
24 and for priority points under part 7075.0405, subpart 1, item K
25 only if the governor, by July 1 prior to the federal fiscal year
26 in which funding is sought, has set aside a portion of the
27 state's allotment or appropriation for correction of combined
28 sewer overflows. This set aside must not exceed 20 percent of
29 the state's allotment for each fiscal year. In no event after
30 October 1, 1984, may funding for combined sewer overflow
31 projects exceed the amount set aside by the governor for these
32 projects.

33 Subp. 4. [Unchanged.]

34 7075.0406 EXTRA POINTS.

35 In addition to the priority points a municipality is
36 entitled to for its project, the following extra points shall

1 also be awarded to a qualifying municipality:

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

10 (1) information on geologic and soil conditions
11 including soil types, permeabilities, and presence or absence of
12 confining units;

13 (2) groundwater flow patterns in the area of the
14 facility or proposed facility;

15 (3) an assessment of the extent and magnitude of
16 the contaminant plume;

17 (4) an identification of water users and
18 assessment of the amount of water appropriations in the area of
19 the facility or proposed facility;

20 (5) flow rates and flow patterns of surface
21 waters;

22 (6) information on well construction for wells in
23 the area of the facility or proposed facility, particularly
24 wells that have been or will be impacted;

25 (7) a description of the facility's construction,
26 operation, and performance if there is an existing facility,
27 with an explanation of why the facility is creating a public
28 health hazard;

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

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

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

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

9 (2) Failing septic system. A municipality with
10 an existing septic system where more than 50 percent of the
11 existing septic systems discharge raw or partially treated
12 sewage to the ground surface or surface waters shall be awarded
13 30 extra points.

14 (3) Primary treatment. A municipality whose
15 present facilities are designed for only primary treatment shall
16 be awarded 20 extra points.

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

20 C. Watershed pollution abatement plan. A
21 municipality that proposes a project that is an integral part of
22 a watershed pollution abatement plan shall be awarded 15 extra
23 points. A watershed pollution abatement plan is a plan prepared
24 by a watershed district or watershed management organization and
25 approved by the Minnesota Water Resources Board and includes the
26 following:

27 (1) specific point source and nonpoint source
28 pollution abatement strategy; and

29 (2) statewide water quality management plan goals
30 and objectives, including the best management practices.

31 A municipality is not entitled to 15 extra points under
32 this provision unless the watershed district or watershed
33 management organization has adopted specific rules to implement
34 the watershed abatement plan and the plan has been updated in
35 the last ten years. If a project is part of several watershed
36 districts or management organizations, all of the watershed

1 districts or management organizations must have satisfied the
2 above criteria in order for the municipality to receive the
3 extra points.

4 D. Outstanding resource value waters. A municipality
5 that discharges to or has an adverse impact upon an outstanding
6 resource value water shall be awarded ten extra points. An
7 outstanding resource value water is Lake Superior, any water in
8 the Boundary Waters Canoe Area Wilderness or Voyageurs National
9 Park, and all federal and state designated wild, scenic, or
10 recreational river segments.

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

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

23 7075.0409 MUNICIPAL PROJECT LIST.

24 Subpart 1. Adoption of municipal project list. The agency
25 shall adopt a municipal project list each fiscal year which
26 shall list in order of priority projects for which federal grant
27 funds will be requested from current allotments and for which
28 state grants will be awarded from current appropriations. The
29 municipal project list shall also list any nonproject uses of
30 the state's allotment of federal grant funds and of the
31 appropriation of state grant funds, including but not limited
32 to, training grants and costs of administration.

33 Subp. 2. Submissions by municipality. A municipality that
34 requests project placement on the municipal project list shall
35 submit to the agency by July 1 prior to the beginning of the
36 fiscal year for which the municipal project list is prepared, an

1 approvable facilities plan if the grant sought is a Step 2+3
2 grant, and approvable plans and specifications based on a
3 facilities plan previously certified by this agency if the grant
4 sought is a Step 3 grant. Each municipality requesting
5 placement on the municipal project list shall also indicate its
6 preferred funding source, if it has one. No municipality may be
7 listed on the municipal project list unless the municipality has
8 submitted the necessary facilities plan or plans and
9 specifications.

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

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

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

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

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

29 D. the municipalities' preferences for funding
30 sources.

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

34 A. The agency shall accommodate municipalities'
35 preferences for funding sources in priority order until the
36 costs of the projects being funded from one funding source reach

1 the full allotment or appropriation of grant funds available
2 from that source for the fiscal year. If a municipality
3 expresses no preference, the agency shall determine from which
4 source it will be funded.

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

12 C. The agency shall then list on the municipal
13 project list in priority order those projects on the municipal
14 needs list with priority rankings lower than those selected
15 under items A and B, but which have been identified by the
16 commissioner of energy and economic development by July 1 as
17 being substantial economic development projects, and for which a
18 portion of the appropriation for the fiscal year has been set
19 aside for such projects.

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

24 Subp. 5. Reimbursement project list. The agency shall
25 prepare a reimbursement project list that lists those
26 municipalities that are willing to proceed with projects and are
27 willing to apply to be reimbursed in the subsequent year
28 conditioned upon appropriation of sufficient money for that
29 year. No municipality may be listed on the reimbursement
30 project list unless the municipality has requested placement on
31 the list, has submitted approvable plans and specifications, and
32 is expected by the agency to be listed on the following fiscal
33 year's municipal project list. The total cost of these
34 reimbursement projects may not exceed the amount of the expected
35 independent state grant appropriation for the next year.
36 Reimbursement projects must be listed in the same order of

1 priority as they appear on the municipal needs list. A
2 reimbursement project may appear on both the reimbursement
3 project list and the reserve project list.

4 7075.0411 PROJECT ELIGIBILITY.

5 Subpart 1. Steps eligible. Federal grants and state
6 matching grants shall be awarded only for Step 2+3 and Step 3
7 projects. Advances of allowance for Step 1 and 2 projects may
8 also be provided from federal funds. Independent state grants
9 may be awarded for Step 1, Step 2, Step 2+3, and Step 3 projects.

10 Subp. 2. General eligibility. No project is eligible for
11 a federal grant or a state matching grant unless it is eligible
12 for funding under the act and applicable federal regulations. No
13 project is eligible for an independent state grant unless it is
14 eligible under these parts and applicable state statutes.

15 Subp. 3. Initiation of construction. A municipality is
16 not eligible for a federal grant or a state matching grant if
17 construction on the project has been initiated prior to the
18 award of the grant.

19 A municipality may be eligible for an independent state
20 grant after initiation of construction, provided that:

21 A. the municipality was listed on the reimbursement
22 project list in the fiscal year construction began;

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

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

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

35 7075.0412 ADJUSTMENTS IN THE MUNICIPAL PROJECT LIST.

1 Notwithstanding any other provision in this chapter, the
2 director may, as necessary to establish criteria for determining
3 priority for applications for federal and state matching
4 construction grants under the act, under regulations and
5 guidelines of the Environmental Protection Agency promulgated
6 under the act, and under Minnesota Statutes, chapters 115 and
7 116, establish such criteria for determining priority upon a
8 basis other than that provided herein, to the extent required to
9 comply with the act, and with guidelines and regulations under
10 or resulting from the act.

11 7075.0413 PUBLIC PARTICIPATION.

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

18 Subp. 2. [Unchanged.]

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

24 Subp. 4. [Unchanged.]

25 7075.0414 GRANT APPLICATIONS.

26 Subpart 1. and 2. [Unchanged.]

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

35 Subp. 4. Additional information for a Step 1 grant. A

1 municipality that applies for a Step 1 grant shall, in addition
2 to submitting the completed application form, submit the
3 following information for agency review and approval:

4 A. A resolution of the governing body of the
5 municipality that authorizes the filing of the application and
6 that designates the municipal official authorized to sign the
7 application and grant documents.

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

10 C. Construction cost estimates.

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

13 E. If more than one municipality is involved in the
14 grant application, the resolutions required in items A and G
15 must be submitted for each municipality involved in the
16 project. In addition, the municipalities shall submit an
17 agreement indicating their intent to participate in joint
18 treatment, outlining each municipality's responsibilities during
19 planning and setting forth the cost-sharing methodology.

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

24 G. Unsewered municipalities shall also submit the
25 following:

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

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

34 (3) a resolution by the governing body of the
35 municipality resolving that the sewage collection system will be
36 constructed concurrently with the sewage treatment works if the

1 collection system is not part of the project to be funded; and

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

5 H. Other documents that are required by EPA
6 regulation or other requirements of the act or other state or
7 federal statutes.

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

13 A. A resolution of the governing body of the
14 municipality that authorizes the filing of the application and
15 that designates the municipal official authorized to sign the
16 application and grant documents.

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

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

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

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

30 F. Amendments to the facilities plan.

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

34 H. A certification from the municipality that the
35 municipality shall prohibit unpolluted water connections to the
36 municipality's sanitary sewer system in the future, and inspect

1 new connections to the sanitary sewer system throughout the
2 municipality's jurisdiction to ensure that the connections
3 conform to the Minnesota Plumbing Code, found in the rules of
4 the department of health, chapter 4715.

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

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

15 K. Other documents that are required by EPA
16 regulation or other requirements of the act or other state or
17 federal statutes.

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

22 A. Addenda to the plans and specifications for the
23 treatment works or other project to be funded.

24 B. A sewer service charge system comprised of a user
25 charge system, including a proposed financial management system,
26 and a system for raising funds to cover the municipality's costs
27 of construction and to retire the municipality's debt costs
28 attributable to the wastewater treatment works to be constructed.

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

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

36 The system for raising funds to cover the municipality's

1 costs of construction and to retire the municipality's debt
2 costs need not be proportionally assessed against each user
3 class, but the manner in which the charge will be distributed
4 must be described.

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

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

9 E. A preliminary plan of operation of the treatment
10 works.

11 F. Costs for developing an operation and maintenance
12 manual and a procedure for startup of the treatment works.

13 G. A wage rate determination information sheet, as
14 provided by the agency.

15 H. A signature and registration number of the
16 consulting engineer accompanying the following certification
17 statement:

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

31 I. A proposed engineering contract that provides for
32 the consulting engineer or the engineer's agent to be present
33 onsite during the hours of construction for purposes of
34 inspection, although the inspector does not have to be a
35 resident of the municipality, and to submit written reports to
36 the agency on request describing the type of construction

1 inspected and the time involved in inspection after construction
2 commences.

3 J. An engineer's certificate of adequate errors and
4 omissions insurance.

5 K. A treatment agreement with each major contributing
6 industry that will discharge wastewater to the new or upgraded
7 system.

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

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

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

19 O. Assurance that the municipality has, or will have
20 within 90 days after authorization to bid, full rights to all
21 necessary land to allow construction and operation of the
22 facilities during the useful life of the facilities.

23 P. Other documents that are required by EPA
24 regulation or other requirements of the act or other state or
25 federal statutes.

26 Subp. 7. Requirements prior to authorization to seek
27 construction bids. A municipality that has received a Step 2+3
28 grant shall submit the same information required of a Step 3
29 grant applicant before the municipality may receive
30 authorization to seek bids for construction of the project.

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

34 7075.0416 APPROVAL OF GRANT APPLICATIONS.

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

1 7075.0415.

2 The director shall certify to the EPA each approved federal
3 grant application.

4 7075.0417 TENDER OF FEDERAL AND STATE MATCHING GRANTS.

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

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

14 7075.0419 ADVANCES OF ALLOWANCE.

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

20 Subp. 2. Advance of allowance. A municipality on the
21 municipal needs list with a population in the service area of
22 less than 10,000 people is eligible to apply for an advance of
23 allowance. The application shall be submitted by ~~July 1~~ prior
24 ~~to the beginning of the federal fiscal year for which the~~
25 ~~municipal project list will be prepared~~ within 60 days after the
26 date on which the agency informs the city in writing of its
27 intent to offer an advance.

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

- 31 A. council resolution requesting the advance;
32 B. certification that funds are not available from
33 other sources;
34 C. estimate of construction costs of the project with
35 supporting documentation;

- 1 D. per capita income;
2 E. municipal bonded debt;
3 F. adjusted assessed value of the municipality; and
4 G. for Step 1 advances, a plan of study that will
5 result in an approvable facilities plan.

6 Subp. 3a. Submittal of facilities plan. In order to
7 receive a Step 2 advance, a city must submit, by July 1 prior to
8 the fiscal year in which the advance is awarded, an approvable
9 facilities plan. The facilities plan must be approved before
10 the advance will be awarded.

11 Subp. 4. [Unchanged.]

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

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

18 Subp. 7. Order of award for advance. If more
19 municipalities apply for an advance of allowance than can be
20 awarded from the amount reserved for that purpose, the money
21 available must be awarded to the qualifying municipalities in
22 order of their placement on the municipal needs list.

23 7075.0425 LOCAL SHARE.

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

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

30 B. the municipality is unable to finance the local
31 share and attain a minimal point rating of 40 under the criteria
32 of part 7075.2200;

33 C. application is made prior to the initiation of
34 construction; and

35 D. the public health of the state and the prevention,
36 control, and abatement of water pollution require the

1 construction of the project.

2 7075.2000 APPLICATION FOR CONSTRUCTION LOAN PROGRAM.

3 Subpart 1. and 2. [Unchanged.]

4 Subp. 3. Other evidence of support. The construction loan
5 application form shall be supported by:

6 A. The attachments of subpart 2, items A, B, and D
7 and the items of part 7075.0414, subpart 6. The director for
8 just cause may waive or defer the submission of any items
9 required pursuant to part 7075.0414, subpart 6 if the items are
10 EPA requirements.

11 B. Resolution of the governing body of the
12 municipality obligating the municipality to repay the loan to
13 the state treasurer in annual installments including both
14 principal and interest, each in an amount sufficient to pay the
15 principal amount within 20 years or a shorter time interval if
16 the amount of the annual payment will not justify the
17 administrative expenses of processing the payment, from user
18 charges, taxes, special assessments, or other funds available to
19 it.

20 Subp. 4. and 5. [Unchanged.]

21

22 Emergency Rules as Adopted

23 7075.04115 [Emergency] GRANT AMOUNTS.

24 Subpart 1. State matching grants. For projects tendered,
25 on or after October 1, 1984, a federal grant at 55 percent or
26 more of the eligible cost for construction of a treatment works,
27 the agency shall award a state matching grant for up to an
28 additional 15 percent of the eligible cost if construction of
29 the treatment works would otherwise impose a significant
30 financial hardship on the municipality.

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

33 A. The agency may award Step 1 and Step 2 independent
34 state grants to municipalities in an amount determined according
35 to the same procedures for calculating an allowance under Code

1 of Federal Regulations, title 40, part 35, appendix B.

2 B. The agency may award Step 2+3 and Step 3
3 independent state grants to municipalities to pay for 50 percent
4 of the eligible cost of construction, or, if the agency requires
5 advanced treatment, 65 percent of the eligible cost of
6 construction. If construction of a treatment works would
7 otherwise impose a significant financial hardship on a
8 municipality, the agency may award an independent state grant to
9 pay for up to an additional 15 percent of the eligible cost of
10 construction, or if the agency requires advanced treatment, an
11 additional ten percent of the eligible cost of construction.

12 Subp. 3. Local share. Except as provided in part
13 7075.0425, in no event may a municipality that obtains a state
14 matching grant or independent state grant be responsible for
15 less than 25 percent of the eligible cost of the project.

16 Subp. 4. Significant financial hardship. The amount of a
17 state matching grant awarded to a municipality after October 1,
18 1984, and the amount of a supplemental independent state grant
19 awarded to a municipality depends on the extent to which
20 construction of the treatment works imposes a significant
21 financial hardship on the municipality. The determination of
22 the financial hardship and the amount of the grant must be based
23 on per connection capital cost, median household income, and per
24 capita adjusted assessed valuation, in accordance with the
25 following procedures:

26 A. The agency shall award a state matching grant or
27 independent state grant for up to five percent of the eligible
28 cost of construction based on the municipality's per connection
29 capital cost after bidding compared with the median per
30 connection capital cost for all projects which accepted bids
31 under the programs during the two years prior to adoption of the
32 municipal project list on which the municipality appears. The
33 percentage of the eligible cost to be paid for by the grant
34 based on per connection capital cost is determined by the
35 following table.

36 Municipality Per Connection Cost x 100 ÷	Percentage
37 Median Per Connection Cost of Projects Bid During	of Cost

1	Previous Two Years	Funded
2	60-69	0.5
3	70-79	1.0
4	80-89	1.5
5	90-99	2.0
6	100-119	2.5
7	120-139	3.0
8	140-159	3.5
9	160-179	4.0
10	180-199	4.5
11	200 or more	5.0

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

20		Percentage
21	Municipality Median Household Income x 100 ÷	of Cost
22	State Median Nonmetropolitan Household Income	Funded
23	100-104	0.5
24	95-100	1.0
25	90-94	1.5
26	85-89	2.0
27	80-84	2.5
28	75-79	3.0
29	70-74	3.5
30	65-69	4.0
31	60-64	4.5
32	less than 60	5.0

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

43	Municipality Per Capita Adjusted Assessed Valuation	Percentage
44	x 100 ÷ State Median Per Capita Adjusted Assessed	of Cost
45	Valuation	Funded
46	105-109	0.5
47	100-104	1.0
48	95-99	1.5
49	90-94	2.0
50	85-89	2.5
51	80-84	3.0
52	75-79	3.5
53	70-74	4.0
54	65-69	4.5

1 less than 65 5.0

2 7075.04211 [Emergency] PAYMENT OF STATE MATCHING GRANTS.

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

9 Subp. 2. Step 2 matching grants for federal grants awarded
10 before May 12, 1982. The agency shall pay 50 percent of a Step
11 2 state matching grant for a federal grant awarded before May
12 12, 1982, when plans and specifications have been received by
13 the director. The remaining 50 percent of the Step 2 state
14 matching grant shall be paid when the agency approves of the
15 plans and specifications and after final payment has been paid
16 by the Environmental Protection Agency.

17 Subp. 3. Step 2 portion of Step 2+3 matching grants for
18 federal grants awarded before May 12, 1982. The agency shall
19 pay 50 percent of the Step 2 portion of a Step 2+3 state
20 matching grant for a federal grant awarded before May 12, 1982,
21 when adequate plans and specifications have been received by the
22 director. The remaining 50 percent of the Step 2 state matching
23 grant shall be paid when the agency approves of the plans and
24 specifications and after final payment has been paid by the
25 Environmental Protection Agency. The agency shall pay for
26 eligible land costs when the municipality submits proof of
27 purchase, if the municipality received the agency's advance
28 approval to purchase the land.

29 Subp. 4. Step 2 portion of Step 2+3 grants awarded after
30 May 12, 1982. The agency shall pay 50 percent of the Step 2
31 portion of a Step 2+3 state matching grant awarded after May 12,
32 1982, when the plans and specifications are 50 percent complete,
33 and the municipality has submitted a payment request certifying
34 that at least 50 percent of the work on the plans and
35 specifications is complete. The agency shall pay the remaining
36 50 percent of the Step 2 portion of the grant when a payment

1 request has been submitted, the Environmental Protection Agency
2 has paid the federal grant, and the municipality has awarded all
3 subcontracts for construction and purchased all eligible land.
4 The agency shall pay for eligible land costs when the
5 municipality submits proof of purchase, provided the
6 municipality received the agency's advance approval to purchase
7 the land.

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

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

19 A. submitted to the agency a request for the payment;

20 B. hired a wastewater treatment works operator having
21 a valid state certificate;

22 C. adopted a sewer use ordinance that will control
23 wastewater discharges to the municipality's wastewater treatment
24 system;

25 D. adopted a user charge system that will generate
26 revenue to offset the annual costs of operation, maintenance,
27 and equipment replacement;

28 E. submitted a certification by the contractor that
29 the project was built according to the plans and specifications;

30 F. submitted a copy of the as-built specifications;

31 G. certified that the municipality is complying with
32 the operation and maintenance manual for the treatment works
33 that was approved by the agency;

34 H. complied with the municipality's NPDES/SDS permit
35 for the treatment works;

36 I. put the treatment plant into operation and is

1 operating the treatment plant efficiently;

2 J. received final payment of the federal grant;

3 K. submitted a revised operation and maintenance
4 manual; and

5 L. submitted a start-up report.

6 Subp. 6. Step 3 portion of Step 2+3 grant. The agency
7 shall pay the Step 3 portion of a Step 2+3 grant in accordance
8 with the procedure and requirements in subpart 5.

9 Subp. 7. Step 3 grant with allowance. The agency shall
10 pay the allowance for facilities planning and design immediately
11 after the grant is awarded provided the municipality submits a
12 payment request and the EPA has paid the federal allowance.

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

15 7075.04212 [Emergency] PAYMENT OF INDEPENDENT STATE GRANTS.

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

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

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

23 C. the balance of the grant when the facilities plan
24 has been approved by the agency.

25 Subp. 2. Step 1 grants for unsewerred communities. The
26 agency shall pay Step 1 grants for unsewerred communities in
27 accordance with the following schedule:

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

33 B. Up to 50 percent of the grant when the facilities
34 plan is received by the director.

35 C. The balance of the grant when the facilities plan
36 has been approved by the agency.

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

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

6 B. up to 50 percent of the grant when the plans and
7 specifications are received by the director; and

8 C. the balance of the grant when the plans and
9 specifications have been approved by the agency.

10 Subp. 4. Step 2 portion of Step 2+3 grants. The agency
11 shall pay the Step 2 portion of a Step 2+3 grant in accordance
12 with the following schedule:

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

16 B. up to 50 percent of the grant when the plans and
17 specifications are received by the director;

18 C. the remaining amount of the Step 2 portion of the
19 grant, when a payment request has been submitted and the
20 municipality has awarded all subcontracts for construction and
21 purchased all eligible land; and

22 D. the agency shall pay for eligible land costs when
23 the municipality submits proof of purchase, provided the
24 municipality received the agency's advance approval to purchase
25 the land.

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

29 A. A municipality may request in writing periodic
30 payments of the Step 3 portion of a Step 2+3 grant up to 50
31 percent of the total grant. With each payment request the
32 municipality shall submit a summary of all architectural and
33 engineering costs expended to date in the format required in
34 submitting the original grant application.

35 B. The agency shall make periodic payments of the
36 amount encompassing 51 percent to 80 percent of the Step 3

1 portion of the Step 2+3 grant when the municipality submits the
2 information required in item A and has completed the following:

3 (1) received agency approval of the final plan of
4 operation;

5 (2) hired a wastewater treatment works operator
6 having a valid state certificate;

7 (3) adopted a sewer use ordinance that will
8 control wastewater discharges to the municipality's wastewater
9 treatment system; and

10 (4) adopted a sewer service charge system with
11 updated cost revisions.

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

17 (1) submitted a certification by the contractor
18 that the project was built according to the plans and
19 specifications;

20 (2) submitted a copy of the as-built
21 specifications;

22 (3) certified that the municipality is complying
23 with the operation and maintenance manual for the treatment
24 works that was approved by the agency;

25 (4) complied with the municipality's NPDES/SDS
26 permit for the treatment works;

27 (5) put the treatment plant into operation and is
28 operating the treatment plant efficiently;

29 (6) submitted a revised operation and maintenance
30 manual; and

31 (7) submitted a start-up report.

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

35 Subp. 7. Step 3 grant with allowance. The agency shall
36 pay the allowance for facilities planning and design immediately

1 after the grant is awarded provided the municipality has
2 submitted a payment request.

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

5 7075.04213 [Emergency] PAYMENT OF ADVANCES OF ALLOWANCE.

6 Subpart 1. Sewered communities. The agency shall pay Step
7 1 advances of allowance for sewered communities in accordance
8 with the procedures and requirements in part 7075.04212
9 [Emergency], subpart 1.

10 Subp. 2. Unsewered communities. The agency shall pay Step
11 1 advances of allowance for unsewered communities in accordance
12 with the procedures and requirements in part 7075.04212
13 [Emergency], subpart 2.

14 Subp. 3. Step 2 advances of allowance. The agency shall
15 pay Step 2 advances of allowance for unsewered communities in
16 accordance with the procedures and requirements in part
17 7075.04212 [Emergency], subpart 3.

18 7075.04214 [Emergency] GENERAL REQUIREMENTS.

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

23 Subp. 2. Reduction in independent state grant payments.
24 For independent state grants, if the actual costs are less than
25 the amount on which the grant was based, the agency shall reduce
26 the grant proportionately.

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

30

31 REPEALER. Minnesota Rules, part 7075.0422 is repealed.

32

33 EFFECTIVE DATE. Notwithstanding any rule or law to the
34 contrary, upon expiration of the emergency amendments to parts
35 7075.0100, 7075.0200, 7075.0400, 7075.0401, 7075.0405,

1 7075.0406, 7075.0409, 7075.0411, 7075.0412, 7075.0413,
2 7075.0414, 7075.0416, 7075.0417, 7075.0419, 7075.0425, and
3 7075.2000 and the repealer of part 7075.0422, the permanent
4 parts amended and repealed are reinstated.