

1 Pollution Control Agency

2

3 Adopted Emergency Amendments to Permanent Rules and Emergency  
4 Rules Relating to Municipal Project List and Corrective Action  
5 Grants Program

6

7 Rules as Adopted

8 7075.0409 MUNICIPAL PROJECT LIST.

9 Subpart 1. Adoption of municipal project list. The agency  
10 shall adopt a municipal project list each fiscal year which  
11 shall list in order of priority projects for which federal grant  
12 funds will be requested from current allotments and for which  
13 independent state grants will be awarded from current  
14 appropriations. The municipal project list shall also contain  
15 those projects for which state financial assistance will be  
16 available for combined sewer overflow abatement projects. The  
17 municipal project list shall also list any nonproject uses of  
18 the state's allotment of federal grant funds and of the  
19 appropriation of state grant funds, including but not limited  
20 to, training grants and costs of administration. The municipal  
21 project list may, but need not, list projects to be funded under  
22 the corrective action grants program authorized in Minnesota  
23 Statutes, section 116.181 and further described in parts  
24 7075.1010 to 7075.1095 [Emergency].

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

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

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

35 (1) a facilities plan in conformance with part

1 7075.0200, subpart 9; and

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

6 C. If the grant sought is a Step 3 grant, the  
7 municipality shall submit the following items by September 1  
8 during the state fiscal year, and prior to the beginning of the  
9 federal fiscal year, for which the municipal project list is  
10 prepared. If the municipality fails to submit the required  
11 items by September 1, the agency shall remove the municipality  
12 from the municipal project list.

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

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

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

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

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

34 The system for raising funds to cover the municipality's  
35 costs of construction and to retire the municipality's debt  
36 costs need not be proportionally assessed against each user

1 class, but the manner in which the charge will be distributed  
2 must be described.

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

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

8 D. The municipality shall, by June 1 prior to the  
9 beginning of the fiscal year for which the municipal project  
10 list is prepared, make all necessary corrections to the  
11 documents in item B if the grant sought is a Step 2, 2+3, or 3  
12 grant, so as to make them approvable. If the grant sought is a  
13 Step 3 grant, the municipality shall also submit a council  
14 resolution agreeing to submit, by the following September 1, the  
15 documents listed in item C and a schedule for construction.

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

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

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

1 year.

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

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

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

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

14 D. the municipalities' preference for funding  
15 sources; and

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

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

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

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

35 C. The agency shall then list on the municipal  
36 project list in priority order those projects on the municipal

1 needs list with priority rankings lower than those selected  
2 under items A and B, but which have been identified by the  
3 commissioner of energy and economic development by July 1 as  
4 being substantial economic development projects, and for which a  
5 portion of the appropriation for the fiscal year has been set  
6 aside for such projects.

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

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

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

27 7075.0411 PROJECT ELIGIBILITY.

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

35 Subp. 2. General eligibility. No project is eligible for

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

9       **Subp. 3. Initiation of construction.** A municipality may  
10 retain eligibility of construction costs incurred before the  
11 award of an independent state grant only if:

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

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

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

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

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

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

32           B. In addition to other eligible costs established by  
33 state law for combined sewer overflow abatement projects, storm  
34 water conveyance facilities that are part of the most cost  
35 effective alternative for combined sewer overflow abatement  
36 shall be eligible for state financial assistance. Such

1 facilities shall include those structures, pipes, and  
2 appurtenances from the point of entry at the catch basin to the  
3 outlet structure which are necessary to convey up to the  
4 five-year storm.

5 7075.0428 GRANT AMOUNTS.

6 Subpart 1. State matching grants.

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

14 B. For projects tendered, on or after October 1,  
15 1987, a federal grant at 55 percent or more of the eligible cost  
16 for construction of a treatment works, the agency shall award a  
17 state matching grant for 50 percent of the nonfederal share of  
18 the eligible cost of construction for municipalities with  
19 populations of 25,000 or less.

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

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

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

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

34 A. The agency may award state financial assistance  
35 for design of combined sewer overflow abatement projects to

1 municipalities in an amount determined according to the same  
2 procedures for calculating an allowance under Code of Federal  
3 Regulations, title 40, part 35, appendix B.

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

10                   (1) Minneapolis, 24.2 percent;

11                   (2) Saint Paul, 71.6 percent;

12                   (3) South Saint Paul, 4.2 percent.

13           C. By no later than March 31 each year, beginning in  
14 1987, the agency shall determine whether or not each  
15 municipality that is eligible for financial assistance under  
16 this program has submitted a complete financial assistance  
17 application and either the city council has adopted final orders  
18 for construction if the work is to be contracted out, or issued  
19 work proceed orders if the municipality will do the work with  
20 its own employees, for enough work to allow the municipality to  
21 utilize its total pro rata share for the present fiscal year.  
22 If the agency determines that a municipality has not submitted a  
23 complete financial assistance application and the city council  
24 has not adopted final orders for construction or the city has  
25 not issued work proceed orders, the agency shall distribute such  
26 unusable funds to other eligible municipalities that have  
27 submitted complete financial assistance applications to utilize  
28 such additional funds. For any municipality that is awarded  
29 additional funds , the city council shall adopt final orders for  
30 construction or the city shall issue work proceed orders to  
31 utilize such funds by May 31 of the present fiscal year in order  
32 to retain the funds.

33           Each fiscal year, beginning in 1988, allocations to a  
34 municipality that has received additional funds shall be reduced  
35 by one-third of the total amount of additional funds that have  
36 been awarded to the municipality in earlier years. These funds



1 shall be awarded to the municipality that was initially entitled  
 2 to them. In the event that, for the municipality entitled to  
 3 the repayment funds, the city council still has not adopted  
 4 final orders for construction or the city has not issued work  
 5 proceed orders to utilize the funds in that fiscal year, the  
 6 municipality awarded the additional funds is not required to  
 7 make the repayment. The repayment procedure set forth in this  
 8 item shall continue until the municipality has repaid all  
 9 additional funds that it has been awarded or until the  
 10 municipality has completed its combined sewer overflow abatement  
 11 projects in their entirety.

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 ten 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 which was awarded  
 18 a federal grant after October 1, 1984, and before October 1,  
 19 1987, depends on the extent to which construction of the  
 20 treatment works imposes a significant financial hardship on the  
 21 municipality. The determination of the financial hardship and  
 22 the amount of the grant must be based on per connection capital  
 23 cost, median household income, and per capita adjusted assessed  
 24 valuation, in accordance with the following procedures:

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

Municipality Per Connection Cost $\times 100 \div$ Median Per Connection Cost of Projects Bid During Previous Two Years	Percentage of Cost Funded
60 - 69	0.5
70 - 79	1.0

1	80 - 89	1.5
2	90 - 99	2.0
3	100 - 119	2.5
4	120 - 139	3.0
5	140 - 159	3.5
6	160 - 179	4.0
7	180 - 199	4.5
8	200 or more	5.0
9		

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

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

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

42 Municipality Per Capita Adjusted	Percentage
43 Assessed Valuation $\times$ 100 $\div$ State	of Cost
44 Median Per Capita Adjusted	Funded
45 Assessed Valuation	
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

1	75 - 79	3.5
2	70 - 74	4.0
3	65 - 69	4.5
4	less than 65	5.0

5  
6 CORRECTIVE ACTION GRANTS PROGRAM.

7 7075.1010 [Emergency] PURPOSE OF CORRECTIVE ACTION GRANTS  
8 PROGRAM.

9 Parts 7075.1010 to 7075.1095 [Emergency] provide for the  
10 administration of the corrective action grants program which  
11 makes grants available to municipalities with wastewater  
12 treatment facilities funded under the federal or independent  
13 state construction grants programs that are unable to meet  
14 performance standards.

15 7075.1020 [Emergency] DEFINITIONS FOR CORRECTIVE ACTION GRANTS  
16 PROGRAM.

17 Subpart 1. Scope. For the purpose of parts 7075.1010 to  
18 7075.1095 [Emergency], the following terms have the meaning  
19 given them.

20 Subp. 2. Performance standards. "Performance standards"  
21 means the criteria established for a wastewater treatment  
22 facility under the federal construction grants program or the  
23 independent state construction grants program for the purpose of  
24 determining the project's satisfactory performance.

25 7075.1030 [Emergency] ELIGIBILITY FOR PARTICIPATION IN  
26 CORRECTIVE ACTION GRANTS PROGRAM.

27 To be eligible for participation in the corrective action  
28 grants program, a municipality shall meet the following  
29 requirements:

30 A. The municipality received a grant under the  
31 federal construction grants program or the independent state  
32 construction grants program.

33 B. The municipality executed a contract for  
34 construction of its wastewater treatment facility after December  
35 31, 1981.

36 C. The population served by the wastewater treatment  
37 facility is 1,500 or less.

1           D. The municipality's wastewater treatment facility  
2 is unable to meet performance standards. The municipality shall  
3 notify the commissioner in writing of the wastewater treatment  
4 facility's failure before initiation of operation or no later  
5 than one year following initiation of operation.

6           E. The inability of the municipality's wastewater  
7 treatment facility to meet performance standards is not the  
8 result of the failure of innovative or alternative technology  
9 components.

10           F. The municipality has not received a grant under  
11 the corrective action grants program.

12 7075.1040 [Emergency] ELIGIBLE COSTS FOR CORRECTIVE ACTION  
13 GRANTS PROGRAM.

14           Subpart 1. **Construction costs.** Only construction costs  
15 that were eligible at the time of the original construction  
16 grant award are eligible. Construction costs incurred before a  
17 corrective action grant award are not eligible.

18           Subp. 2. **Administrative, engineering, and legal costs.**  
19 Fifty percent of the total administrative, engineering, and  
20 legal costs (collectively), directly attributed to the  
21 corrective action, are eligible up to a maximum of 20 percent of  
22 the construction costs approved in the corrective action report.

23 7075.1050 [Emergency] APPLICATION FOR CORRECTIVE ACTION GRANTS  
24 PROGRAM.

25           Subpart 1. **Notice.** The commissioner shall publish in the  
26 State Register a notice that applications for corrective action  
27 grants will be accepted. The notice will contain the deadline  
28 date for submittal of applications and will precede the deadline  
29 by at least 60 days.

30           Subp. 2. **Application.** The municipality shall apply for a  
31 corrective action grant on a form provided by the commissioner.  
32 The municipality shall also submit the following information for  
33 review and approval:

34           A. a corrective action report approved by the  
35 commissioner including:

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

3 (2) a selected alternative for corrective action  
4 including a preliminary design and cost estimate; and

5 (3) a schedule for undertaking the selected  
6 corrective action;

7 B. plans and specifications necessary to implement  
8 the approved corrective action;

9 C. a plan for the recovery of the costs of the  
10 proposed corrective action including a report on the current  
11 status of negotiations or litigation;

12 D. financial statements for the three most current  
13 fiscal years, if available; and

14 E. other information necessary to clarify the  
15 application.

16 Subp. 3. **Submittal date.** The application must be  
17 submitted to the commissioner or postmarked by the noticed  
18 closing date.

19 Subp. 4. **Incomplete applications.** Applications that do  
20 not meet the requirements of subpart 2 by the deadline date for  
21 submittal of applications are ineligible for funding for that  
22 application cycle.

23 7075.1060 [Emergency] RANKING OF APPLICATIONS FOR CORRECTIVE  
24 ACTION GRANTS PROGRAM.

25 The agency shall rank the applications based upon:

26 A. The municipality's lack of financial ability to  
27 pay for the corrective action based upon an evaluation of debt  
28 per capita, mill levy, adjusted assessed valuation, median  
29 income, current and proposed user charges, and any additional  
30 factors that the municipality may offer, such as percentage of  
31 population with a fixed income or population decline, that would  
32 support the municipality's inability to wholly finance the  
33 corrective action. A municipality's documented financial need  
34 shall positively affect its ranking.

35 B. The extent to which the proposed corrective action

1 will make cost effective and efficient use of grant funds such  
2 that a municipality's effort in funding a portion of the  
3 corrective action or actively pursuing legal redress through the  
4 avenues available will have a significant positive impact on its  
5 ranking. The factors to be considered are:

6 (1) the municipality's prior and current efforts  
7 in correcting the performance failure including negotiation and  
8 litigation, local costs incurred, pursuit of other funding  
9 sources; and

10 (2) the municipality's proposed financial  
11 participation in the cost of the corrective action.

12 C. The potential for direct human contact with  
13 untreated or partially treated wastewater on the surface of the  
14 ground, or the potential for imminent contamination of a  
15 drinking water supply.

16 7075.1070 [Emergency] DETERMINATION OF GRANT AWARDS FOR  
17 CORRECTIVE ACTION GRANTS PROGRAM.

18 Subpart 1. Selection of projects. The agency shall select  
19 projects to be funded in priority order on the basis of rank  
20 established according to part 7075.1060 [Emergency]. The agency  
21 is not obligated to allocate the total amount of funds set aside  
22 for this program. The agency may deny funding to municipalities  
23 based on the criteria in part 7075.1060 [Emergency].

24 Subp. 2. Public participation. Items A to C govern public  
25 participation.

26 A. The commissioner shall prepare a corrective action  
27 grants funding proposal including the basis for grant awards and  
28 make it available to the public at least 45 days before  
29 adoption. The commissioner shall mail a free copy of the  
30 proposal to any interested person upon request.

31 B. The commissioner shall give affected  
32 municipalities at least 45 days notice of the agency board  
33 meeting at which the corrective action grants funding proposal  
34 will be acted upon.

35 C. Interested persons may present oral statements at

1 the agency board meeting. The chair may place reasonable  
2 restrictions upon the time and manner in which oral comments are  
3 submitted. Written statements may be served on the agency board  
4 any time up to five days before the meeting.

5 Subp. 3. Amount of award. The amount of the award will be  
6 the amount requested by the municipality in the application, not  
7 to exceed the eligible costs approved in the corrective action  
8 report.

9 Subp. 4. Recovery of costs. The municipality is required  
10 to pursue recovery of costs for the corrective action from  
11 responsible persons as a condition of the grant award.

12 Subp. 5. Amendments to award. The agency shall not amend  
13 the grant amount unless the grant amount exceeds the costs  
14 actually incurred by the municipality.

15 7075.1080 [Emergency] EMERGENCY PROVISIONS FOR CORRECTIVE ACTION  
16 GRANTS PROGRAM.

17 Subpart 1. Eligibility for participation. A municipality  
18 meeting the eligibility requirements in part 7075.1030  
19 [Emergency] with an unfinished construction project seriously  
20 delayed due to major design or construction failures may apply  
21 for an emergency corrective action grant.

22 Subp. 2. Eligible costs. Costs that are eligible under  
23 part 7075.1040 [Emergency] are eligible under an emergency  
24 corrective action grant. Costs incurred before the award of an  
25 emergency corrective action grant are not eligible unless the  
26 municipality has requested and received from the commissioner  
27 written preservation of eligibility before costs are incurred.  
28 Written preservation of eligibility does not guarantee funding.

29 Subp. 3. Application. An eligible municipality may apply  
30 for an emergency corrective action grant at any time. The  
31 application must be made in accordance with part 7075.1050  
32 [Emergency], subpart 2, and must also include a written  
33 discussion of the anticipated financial consequences if the  
34 municipality does not receive an emergency corrective action  
35 grant.

1 Subp. 4. Evaluation of applications. The commissioner  
2 shall evaluate and approve or deny applications based upon the  
3 following criteria:

4 A. the extent to which failure to take immediate  
5 corrective action will cause a significant increase in the total  
6 cost of the project;

7 B. the municipality's lack of financial ability to  
8 pay for the corrective action under part 7075.1060 [Emergency],  
9 item A; and

10 C. the potential for health impacts under part  
11 7075.1060 [Emergency], item C.

12 Subp. 5. Grant award. Upon approval of an application,  
13 the commissioner may award a grant. The amount of the grant  
14 will be up to 80 percent of the total eligible costs as approved  
15 in the corrective action report. If a municipality's  
16 application for an emergency corrective action grant is denied,  
17 the municipality may then apply for a corrective action grant  
18 under part 7075.1050 [Emergency].

19 Subp. 6. Report to agency board. The commissioner shall  
20 report the award of a corrective action grant under this part to  
21 the agency board as soon as possible, but in any case within 60  
22 days.

23 7075.1090 [Emergency] PAYMENTS FOR CORRECTIVE ACTION GRANTS  
24 PROGRAM.

25 The municipality shall make periodic payment requests for  
26 eligible costs as costs are incurred. The commissioner shall  
27 make payments based on the percentage established in the grant  
28 award. The commissioner shall withhold the final ten percent of  
29 the grant until the municipality has successfully completed all  
30 activities in the corrective action report, has affirmatively  
31 certified that the project meets the performance standards as  
32 specified in the grant agreement, and has met the recovery of  
33 cost requirement specified in the grant agreement.

34 7075.1095 [Emergency] RECOVERY OF COSTS FOR CORRECTIVE ACTION  
35 GRANTS PROGRAM.



1           Subpart 1. **Repayment.** The municipality shall pay to the  
2 state the amount of any costs recovered, through litigation or  
3 negotiated settlement, from persons responsible for the failure  
4 of the wastewater treatment facility, proportionally to the  
5 state's monetary participation in the corrective action grant  
6 project. The amount of repayment will not exceed the amount of  
7 the grant.

8           Subp. 2. **Approval of negotiated settlement.** The  
9 municipality shall obtain written approval from the commissioner  
10 of a negotiated settlement before entering into the settlement.

11           Subp. 3. **Failure to pursue recovery.** The commissioner may  
12 stop payment on or require repayment of the corrective action  
13 grant if the municipality fails to pursue recovery of costs as  
14 specified in the grant agreement or if the municipality enters  
15 into a negotiated settlement without the commissioner's written  
16 approval.