

1 Pollution Control Agency

2

3 Adopted Permanent Rules Relating to Water Pollution Control

4 Revolving Fund

5

6 Rules as Adopted

7 WATER POLLUTION CONTROL REVOLVING FUND PROGRAM

8 7075.2505 PURPOSE.

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

19 7075.2510 DEFINITIONS.

20 Subpart 1. Scope. For the purpose of parts 7075.2505 to  
21 7075.2550, the following terms have the meanings given them.  
22 Other terms defined in part 7075.0200 have the meanings given in  
23 that part.

24 Subp. 2. Act. "Act" means ~~Title VI of~~ the Federal Water  
25 Pollution Control Act, United States Code, title 33, sections  
26 ~~1381-1387~~ 1251-1387.

27 Subp. 3. Agency. "Agency" means the Minnesota Pollution  
28 Control Agency.

29 Subp. 4. Authority. "Authority" means the Minnesota  
30 Public Facilities Authority.

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

33 Subp. 6. Intended use plan. "Intended use plan" means the  
34 document ~~that lists eligible projects proposed to be funded in a~~  
35 ~~particular federal fiscal year from funds available in the water~~

1 ~~pollution-control-revolving-fund~~ prepared annually by the agency  
2 according to the requirements in Title VI of the act and  
3 submitted to the United States Environmental Protection Agency.  
4 The plan will identify the intended uses of the amounts  
5 available to the water pollution control revolving fund,  
6 including a list of wastewater treatment projects and other  
7 eligible activities to be funded during the fiscal year.

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

12 Subp. 8. **Municipality.** "Municipality" means any county,  
13 city, or town, the Metropolitan Waste Control Commission  
14 established in Minnesota Statutes, chapter 473, the Metropolitan  
15 Council when acting under that chapter or an Indian tribe or an  
16 authorized Indian tribal organization, and any other  
17 governmental subdivision of the state responsible by law for the  
18 prevention, control, and abatement of water pollution in any  
19 area of the state.

20 7075.2515 INTENDED USE PLAN.

21 Subpart 1. **Adoption of intended use plan.** The agency  
22 shall annually adopt an intended use plan based upon the  
23 requests received under subpart 3. The agency will amend the  
24 intended use plan to add additional eligible projects as  
25 necessary.

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

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

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

4                   (1) a brief description of the project for which  
5 financial assistance is sought;

6                   (2) a project cost estimate; and

7                   (3) a proposed project schedule, including the  
8 date for submittal of a complete financial assistance  
9 application in conformance with the requirements of part  
10 7075.2520.

11           B. For a Step 3 project, a municipality must first  
12 receive the commissioner's approval of its facilities plan  
13 before it will be placed on the intended use plan. If the  
14 municipality is proposing to change the selected treatment  
15 method or any other major element of a previously approved  
16 facilities plan, the municipality must receive the  
17 commissioner's approval of a facilities plan addendum.

18 7075.2520 APPLICATIONS.

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

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

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

32                   B. a schedule for completion of the facilities plan;

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

35                   D. if more than one municipality is involved in the

1 application, the municipalities shall submit an agreement  
2 indicating their intent to participate in joint treatment,  
3 outlining each municipality's responsibilities during planning  
4 and setting forth the cost-sharing methodology.

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

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

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

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

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

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

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

34 B. A sewer service charge system comprised of a user  
35 charge system and a system providing for dedicated sources of  
36 revenue to pay for the municipality's costs of construction and

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

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

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

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

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

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

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

1 H. An unexecuted engineering contract for all Step 3  
2 work.

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

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

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

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

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

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

23 K. A certification from the municipality that it will  
24 comply with the performance certification requirements in part  
25 7075.2545.

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

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

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

35 7075.2525 APPLICATION CERTIFICATION.

1 Subpart 1. Step 1 projects. Upon review and approval of  
2 the documents required by part 7075.2520, subpart 2, the  
3 ~~commissioner shall certify to the authority~~ and a determination  
4 that the project meets the applicable requirements of the act,  
5 federal regulations, state statutes, and this chapter, the  
6 commissioner shall certify the application to the authority.

7 Subp. 2. Step 2 projects. Upon review and approval of the  
8 documents required by part 7075.2520, subpart 3, the  
9 ~~commissioner shall certify to the authority~~ and a determination  
10 that the project meets the applicable requirements of the act,  
11 federal regulations, state statutes, and this chapter, the  
12 commissioner shall certify the application to the authority.

13 Subp. 3. Step 3 projects. Upon review and approval of the  
14 documents required by part 7075.2520, subpart 4, and completion  
15 of items A and B, ~~the commissioner shall certify to the~~  
16 authority and a determination that the project meets the  
17 applicable requirements of the act, federal regulations, state  
18 statutes, and this chapter, the commissioner shall certify the  
19 application to the authority.

20 A. The environmental review ~~process in~~ requirements  
21 of chapter 4410 and, Minnesota Statutes, chapter 116D has, and  
22 title VI of the act have been satisfactorily completed met.

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

26 7075.2530 CHANGE ORDERS.

27 A municipality proposing to make changes in a project that  
28 substantially alters the type or reliability of the treatment  
29 process shall submit to the commissioner such information as the  
30 commissioner requires to determine the impact of the proposed  
31 change on the environment. Changes in the project that  
32 substantially alter the type or reliability of the treatment  
33 process must be approved by the commissioner before the change  
34 is made. The commissioner shall review the proposed change in  
35 the same manner as the original project was reviewed for

1 compliance with applicable pollution control requirements. A  
2 substantial change in the type or reliability of the treatment  
3 process implemented without prior approval from the commissioner  
4 constitutes grounds for the commissioner to request that the  
5 authority terminate the loan agreement.

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

10 7075.2535 INSPECTIONS.

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

14 7075.2540 STEP 3 REPORTING REQUIREMENTS.

15 Subpart 1. Sixty days before completion of construction.

16 At least 60 days before the scheduled contract date for  
17 completion of construction, the municipality shall submit to the  
18 commissioner:

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

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

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

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

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

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



## 1 7075.2545 PERFORMANCE CERTIFICATION.

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

6 Subp. 2. One year after initiation of operation. One year  
7 after the initiation of operation of the project, the  
8 municipality shall submit to the commissioner the following  
9 items:

10 A. a certification stating whether the project meets  
11 the performance standards identified in the permit;

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

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

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

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

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

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

## 30 7075.2550 REQUEST TO WITHHOLD FINANCIAL ASSISTANCE PAYMENTS.

31 Failure of a municipality's project to conform  
32 substantially to approved plans and specifications or failure of  
33 a municipality to comply with the requirements of part 7075.2540  
34 or 7075.2545 constitutes grounds for the commissioner to request  
35 that the authority withhold payments to the municipality. Once

1 an agreement for correcting the condition leading to the  
2 withholding of funds is reached between the commissioner and the  
3 municipality, the commissioner will recommend to the authority  
4 that the retained funds be released according to the provisions  
5 in the agreement.