

1 Pollution Control Agency

2

3 Adopted Permanent Rules Relating to Municipal Wastewater

4 Treatment Construction Assistance Programs

5

6 Rules as Adopted

7 7075.0100 PURPOSE.

8 This chapter provides for the administration of grants
9 awarded under the federal construction grant program, the
10 independent-state-construction-grant-program, and the state
11 matching construction grant program, the state loan program for
12 the construction of municipal disposal systems. This chapter
13 also provides for the administration of grants awarded before
14 July 1, 1990, under the state independent grants program and the
15 state financial assistance program for combined sewer overflow
16 abatement. It applies to grants and loans awarded before July
17 1, 1990.

18 7077.0100 PURPOSE.

19 Parts 7077.0100 to ~~7077.0330~~ 7077.2010 provide for the
20 administration of the financial assistance programs for the
21 construction of municipal wastewater treatment facilities and.
22 Parts 7077.0200 to 7077.0330 apply to state independent grants
23 and loans financial assistance for combined sewer overflow
24 abatement awarded on or after July 1, 1990. Chapter 7075
25 applies to awards made under these programs before July 1,
26 1990. Parts 7077.0400 to 7077.0765 apply to funds awarded at
27 any time. ~~Chapter 7075 applies to grants and loans awarded~~
28 ~~before July 1, 1990.~~ The programs in chapter 7077 consist of
29 the state independent grants program, parts 7077.0200 to
30 7077.0265; the combined sewer overflow abatement program, parts
31 7077.0300 to 7077.0330; and the water pollution control
32 revolving fund program, parts 7077.0400 to 7077.0445. The state
33 independent grants program includes three set-aside programs:
34 A. the corrective action grants program, parts
35 7077.0500 to 7077.0560;

1 B. the capital cost component grants program, parts
2 7077.0600 to 7077.0660; and

3 C. the individual on-site wastewater treatment
4 systems grants program, parts 7077.0700 to 7077.0765.

5 7077.0105 DEFINITIONS.

6 Subpart 1. Scope. For the purposes of chapter 7077, the
7 terms defined in this part and in Minnesota Statutes, chapters
8 115 and 116, have the meanings given them.

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

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

17	Estimated project	Minimum amount
18	construction cost	of coverage
19		
20	less than \$1,000,000	\$250,000
21	\$1,000,000 to \$2,999,999	\$500,000
22	\$3,000,000 to \$9,999,999	\$1,000,000
23	\$10,000,000 or over	\$2,000,000
24		

25 Subp. 4. Adverse impact. "Adverse impact" means the
26 violation of a water quality standard, according to chapter
27 7050; an objectionable growth of weeds, algae, or rough fish; or
28 a deleterious effect on the physical, chemical, or biological
29 condition of the receiving water that lessens the present or
30 long-term uses of the receiving water.

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

33 Subp. 6. Authority. "Authority" means the Minnesota
34 Public Facilities Authority.

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

38 Subp. 8. Average wet weather flow. "Average wet weather
39 flow" means the daily average flow for the wettest 30

1 consecutive days for mechanical facilities or for the wettest
2 180 consecutive days for controlled discharge pond systems. The
3 180 consecutive days for pond systems must be based on either
4 the storage period from approximately November 15 through May 15
5 or the storage period from approximately May 15 through November
6 15.

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

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

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

16 Subp. 12. **Excessive infiltration.** "Excessive infiltration"
17 means the quantity of flow which is more than 120 gallons per
18 capita per day (domestic base flow and infiltration) or the
19 quantity of infiltration which can be economically and
20 effectively eliminated from a sewer system as determined through
21 a cost effectiveness analysis.

22 Subp. 13. **Excessive inflow.** "Excessive inflow" means the
23 maximum total flow rate during storm events that results in
24 chronic operational problems related to hydraulic overloading of
25 the treatment facility or that results in a total flow of more
26 than 275 gallons per capita per day (domestic base flow plus
27 infiltration plus inflow). Chronic operational problems may
28 include surcharging, backups, bypasses, and overflows.

29 Subp. 14. **Facilities plan.** "Facilities plan" means the
30 plans and studies necessary to determine wastewater treatment
31 needs of a project service area, to systematically evaluate
32 wastewater treatment alternatives that will result in compliance
33 with enforceable water quality standards, and to identify the
34 cost-effective implementable alternative.

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

1 Subp. 16. **Flow equalization system.** "Flow equalization
2 system" means a containment system such as a pond, basin, or
3 tank designed to temporarily hold wet weather flow until the
4 flow can be transported to a wastewater treatment facility. A
5 flow equalization system is a type of sewer system
6 rehabilitation project.

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

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

21 Subp. 19. **Intended use plan.** "Intended use plan" means
22 the document prepared annually by the agency according to the
23 requirements in Title VI of the act and submitted to the United
24 States Environmental Protection Agency. The plan will identify
25 the intended uses of the amounts available to the water
26 pollution control revolving fund, including a list of wastewater
27 treatment projects and other eligible activities proposed to be
28 funded during the fiscal year. Projects will be listed on the
29 intended use plan in the order of their priority ranking on the
30 municipal needs list.

31 Subp. 20. **Major contributing industry.** "Major
32 contributing industry" means an industrial user of a treatment
33 facility that:

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

1 a day;

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

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

6 D. has in its waste before pretreatment a toxic
7 pollutant in excess of what may be discharged to waters of the
8 state, according to chapter 7050; or

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

17 Subp. 21. **Major interceptor sewer.** "Major interceptor
18 sewer" means a sewer, including related lift stations, that
19 intercepts wastewater from the final point in a collector sewer
20 of a municipality and transports the wastewater directly to a
21 wastewater treatment facility, to another major interceptor
22 sewer, or to the collector sewer of another municipality. To be
23 a major interceptor sewer, the average design flow of the sewer
24 must not increase by more than ten percent between its origin
25 and its termination, and physical connections to the sewer must
26 be more than 1,000 feet apart. Infiltration and inflow directly
27 to the sewer and flow from other major interceptor sewers is not
28 included in determining whether the average design flow has
29 increased by more than ten percent.

30 Subp. 22. **Maximum wet weather flow.** "Maximum wet weather
31 flow" means one-seventh of the total maximum flow received
32 during a seven-day period when the groundwater is high and a
33 runoff condition is occurring.

34 Subp. 23. **Municipal needs list.** "Municipal needs list"
35 means the priority list prepared by the commissioner under parts
36 7077.0115 to 7077.0145.

1 Subp. 24. **Municipality.** "Municipality" means any county,
2 city, town, the Metropolitan Waste Control Commission
3 established in Minnesota Statutes, chapter 473, the Metropolitan
4 Council when acting under that chapter, an Indian tribe or an
5 authorized Indian tribal organization, or any other governmental
6 subdivision of the state responsible by law for the prevention,
7 control, and abatement of water pollution in any area of the
8 state.

9 Subp. 25. **Need.** "Need" means a determination that a new
10 or upgraded disposal system is currently required, or will be
11 required within a five-year period to comply with chapter 7040,
12 7050, 7060, or 7080; provided the situation does not exist
13 primarily due to inadequate operation and maintenance or to
14 negligence on the part of any person.

15 Subp. 26. **NPDES/SDS permit.** "NPDES/SDS permit" means a
16 National Pollutant Discharge Elimination System and State
17 Disposal System permit issued by the agency that authorizes
18 under certain conditions the discharge of pollutants to waters
19 of the state and subsurface disposal or on-land disposal and the
20 operation of a disposal system.

21 Subp. 27. **Operation and maintenance manual.** "Operation
22 and maintenance manual" means a document developed to give
23 treatment facility personnel the proper understanding,
24 techniques, and references necessary to properly operate and
25 maintain the treatment facility.

26 Subp. 28. **Outstanding resource value water.** "Outstanding
27 resource value water" means those waters defined in part
28 7050.0180, subpart 2.

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

33 Subp. 30. **Peak instantaneous wet weather flow.** "Peak
34 instantaneous wet weather flow" means the peak instantaneous
35 flow during the day at a time when the groundwater is high and a
36 25-year one hour storm event is occurring.

1 Subp. 31. Performance certification. "Performance
2 certification" means a certification made by a municipality one
3 year after initiation of operation that states its newly
4 constructed wastewater treatment facility is meeting performance
5 standards, as specified under ~~part~~ parts 7077.0255, ~~subpart-17~~
6 ~~item-A~~ 7077.0325, and 7077.0440.

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

15 Subp. 33. Primary treatment facilities. "Primary
16 treatment facilities" means facilities designed to provide a
17 level of treatment lower than that provided by secondary
18 treatment facilities.

19 Subp. 34. Reimbursement project. "Reimbursement project"
20 means a municipal wastewater treatment facility constructed
21 under the reimbursement provision of Minnesota Statutes, section
22 116.18, subdivision 3a.

23 Subp. 35. Relief sewer. "Relief sewer" means a sewer
24 primarily designed to eliminate bypassing caused by insufficient
25 hydraulic capacity in sanitary sewer systems by transporting
26 infiltration or inflow to adequately sized sewers or to a
27 wastewater treatment facility for proper treatment. A sewer is
28 a collector sewer and not a relief sewer if its design flow
29 includes more than 15 percent wastewater at peak instantaneous
30 flow conditions or if it has physical connections closer to each
31 other than 1,000 feet. A relief sewer is a type of sewer system
32 rehabilitation project.

33 Subp. 36. Secondary treatment facilities. "Secondary
34 treatment facilities" means facilities designed to provide
35 biochemical oxidation, effective sedimentation, and
36 disinfection, or the equivalent, consistent with requirements of

1 part 7050.0211, subpart 1. Facilities discharging to limited
2 resource value waters (Class 7 waters) and assigned effluent
3 limitations based on part 7050.0214 and that do not have a
4 phosphorous or toxic substances effluent limitation are
5 secondary treatment facilities for the purpose of this chapter.

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

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

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

20 Subp. 40. **Sewer system rehabilitation project.** "Sewer
21 system rehabilitation project" means a project that repairs or
22 replaces an existing collector or interceptor sewer in order to
23 eliminate bypasses caused by insufficient hydraulic capacity or
24 to reduce the hydraulic flows to a wastewater treatment
25 facility. A sewer system rehabilitation project may include
26 flow equalization systems and relief sewers.

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

32 Subp. 42. **Tertiary treatment facilities.** "Tertiary
33 treatment facilities" means facilities specifically designed to
34 achieve effluent limitations based on part 7050.0211, subpart 1,
35 for phosphorus or toxic substances and facilities designed to
36 meet effluent standards that are more stringent than standards

1 for secondary treatment facilities.

2 Subp. 43. **Treatment agreement.** "Treatment agreement"
3 means an enforceable agreement between a municipality and a
4 major contributing industry that includes the following:

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

9 B. the intended period of use of the treatment
10 facility by the major contributing industry;

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

13 D. a requirement that the quantities to be discharged
14 to the treatment system will be according to applicable
15 standards and requirements.

16 Subp. 44. **Unanticipated site condition.** "Unanticipated
17 site condition" means any subsurface, latent or unknown physical
18 condition at the construction site, which differs materially
19 from those ordinarily encountered and generally recognized as
20 inherent in work of the type provided for in the construction
21 contract that could not have been reasonably identified during
22 the planning or design of the project.

23 Subp. 45. **User charge.** "User charge" means a charge
24 levied on users of a wastewater treatment facility for the
25 user's proportionate share of the cost of equipment replacement
26 and operation and maintenance of the wastewater treatment
27 facility.

28 Subp. 46. **Value engineering.** "Value engineering" means a
29 specialized cost control technique which uses a systematic and
30 creative approach to identify and to focus on unnecessarily high
31 cost in a project in order to arrive at a cost saving without
32 sacrificing the reliability or efficiency of the project.

33 Subp. 47. **Wastewater.** "Wastewater" means sewage,
34 industrial waste, and other waste collected for treatment in a
35 wastewater treatment facility.

1 7077.0110 TYPES OF PROGRAMS.

2 Subpart 1. Scope. Under this chapter and Minnesota
3 Statutes, sections 116.16 to 116.181, the agency may certify to
4 the authority that municipalities may be awarded funds for the
5 assistance programs described in subparts 2 to 7.

6 Subp. 2. State independent grants program. The state
7 independent grants program under parts 7077.0200 to 7077.0265
8 offers grant funds to municipalities for the construction of
9 wastewater treatment facilities and applies to funds awarded on
10 or after July 1, 1990. The process is described in items A to D.

11 A. Construction grants are awarded to municipalities
12 on a priority basis, except as provided in parts 7077.0205,
13 subpart 3, item E; and 7077.0210. Municipalities with the
14 highest priorities, as determined by the point system described
15 in parts 7077.0120 to 7077.0145, are awarded construction grants
16 first.

17 B. The commissioner develops and maintains a
18 municipal needs list that ranks in priority order the
19 municipalities that have a need for a new or upgraded treatment
20 system and that have requested placement on the list.
21 Priorities are determined by awarding points for projects based
22 on the waters affected, the population affected, the type of
23 project proposed, and extra points for qualifying projects.

24 C. The agency adopts a municipal project list that
25 identifies the municipalities that are eligible to apply for
26 construction grants during a designated fiscal year.

27 D. A reimbursement option is available to
28 municipalities willing to proceed with construction while
29 waiting to reach a fundable priority on the municipal needs list.

30 Subp. 3. Combined sewer overflow abatement program.
31 Financial assistance is available for design and construction of
32 combined sewer overflow abatement projects under parts 7077.0300
33 to 7077.0330. The program applies to funds awarded on or after
34 July 1, 1990. The process awards this assistance on a pro rata
35 basis to qualifying municipalities.

36 Subp. 4. Water pollution control revolving fund program.

1 Loans are available to municipalities for the construction of
2 publicly owned wastewater treatment facilities under parts
3 7077.0400 to 7077.0445. The program applies to funds awarded
4 before, on, or after July 1, 1990. Loans may be requested for
5 planning, design, and construction costs. The process is
6 described in items A to C.

7 A. Municipalities seeking funds from the water
8 pollution control revolving fund must be on the municipal needs
9 list.

10 B. The agency annually adopts an intended use plan
11 that includes a list of municipalities with eligible projects
12 that have requested loan assistance.

13 C. The actual loan amounts, terms, and conditions are
14 determined by the authority.

15 Subp. 5. **Corrective action grants program.** Financial
16 assistance is available under parts 7077.0500 to 7077.0560 for
17 the costs associated with correcting a wastewater treatment
18 facility that failed to meet performance standards within the
19 first year of operation. The program applies to funds awarded
20 before, on, or after July 1, 1990. The process is described in
21 items A and B.

22 A. Corrective action grants are certified to the
23 authority for awards in the order that applications that meet
24 the rule requirements are received and to the extent funds are
25 available.

26 B. Recipients of corrective action funds must seek to
27 recover the costs of the corrective work from the parties that
28 are responsible for the performance failure. When funds are
29 recovered, the municipality shall repay the state a portion of
30 the money recovered.

31 Subp. 6. **Capital cost component grant program.** Grant
32 funds are available to municipalities under parts 7077.0600 to
33 7077.0660 for part of the capital cost component of the service
34 fee under a service contract with a private vendor to construct
35 and operate wastewater treatment facilities for 20 years. The
36 program applies to funds awarded before, on, or after July 1,

1 1990. The process is described in items A to D.

2 A. Municipalities seeking a capital cost component
3 grant must be listed on the municipal needs list. Grant
4 applications are taken during announced application periods.

5 B. Applications are ranked according to the priority
6 order on the municipal needs list.

7 C. Grant amounts are determined by comparing the
8 costs of recently constructed facilities in municipalities of
9 similar size.

10 D. Payment of the grant is made following completion
11 of construction and demonstration of satisfactory performance.

12 Subp. 7. Individual on-site wastewater treatment systems
13 grants program. Grant funds are available to municipalities
14 under parts 7077.0700 to 7077.0765 to assist owners of
15 individual on-site wastewater treatment systems in upgrading or
16 replacing failed systems. The program applies to funds awarded
17 before, on, or after July 1, 1990. The process is described in
18 items A to C.

19 A. Municipalities meeting the eligibility
20 requirements in part 7077.0710 may submit grant applications
21 during announced application periods. Both the municipality and
22 the owners of the failed systems must meet statutory and rule
23 requirements.

24 B. Applications are prioritized according to a
25 municipality's median household income.

26 C. Grant payments are made on a reimbursement basis
27 for 50 percent of the on-site system construction costs up to
28 the maximum amounts specified in part 7077.0735.

29 7077.0115 MUNICIPAL NEEDS LIST.

30 Subpart 1. Requirement. The commissioner shall develop
31 and maintain a municipal needs list of municipalities that have
32 a need for a new or upgraded wastewater treatment facility.

33 Subp. 2. Points and listing order. A municipality on the
34 municipal needs list must be awarded points under the criteria
35 established in this chapter. The municipalities must be listed

1 on the municipal needs list in descending order according to the
2 number of points awarded to each.

3 Subp. 3. Request for placement on list. A municipality
4 may submit a written request to the commissioner for placement
5 on the municipal needs list.

6 A. If the municipality is sewerred, its request must
7 include the following information:

8 (1) type and age of existing wastewater treatment
9 facilities;

10 (2) design capacity and current treatment
11 capabilities of existing facilities;

12 (3) data describing actual wastewater flows and
13 loadings;

14 (4) current discharge point and NPDES permit
15 standards;

16 (5) a description of the need for new or upgraded
17 treatment facilities; and

18 (6) an explanation of why the need for new or
19 upgraded facilities is not primarily due to inadequate operation
20 and maintenance or to negligence on the part of any person.

21 B. If the municipality is unsewerred, its request must
22 include the following information:

23 (1) number of existing on-site treatment systems
24 in the municipality;

25 (2) general description of the type and age of
26 existing on-site treatment systems; and

27 (3) a description of the identified need for
28 improved wastewater treatment facilities including the estimated
29 number of failing on-site systems and a description of the basis
30 for that estimate.

31 Subp. 4. Review. The commissioner shall review each
32 request and add to the municipal needs list each municipality
33 for which a need has been found to exist. If the commissioner
34 determines that a need does not exist, the municipality shall
35 not be added to the list and the commissioner shall notify the
36 municipality of the reasons for the determination.

7077.0120 PRIORITY POINTS FOR WATERS AFFECTED.

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

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

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

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

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

7077.0125 PRIORITY POINTS FOR POPULATION SERVED.

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

Population	\log_{10}	Priority Points Assigned
100	2	10.0

1	1,000	3	15.0
2	10,000	4	20.0
3	100,000	5	25.0
4	1,000,000	6	30.0

5 7077.0130 PRIORITY POINTS FOR TYPE OF PROJECT.

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

9	Type of Project	Priority Points
10		
11	A. Major treatment facilities:	
12	(1) major tertiary treatment	
13	facilities	160
14		
15	(2) major secondary treatment	
16	facilities	150
17		
18	B. Dechlorination facilities:	
19	(1) tertiary treatment dechlorination	
20	facilities	120
21		
22	(2) secondary treatment	
23	dechlorination facilities	110
24		
25	C. Ancillary additions:	
26	(1) ancillary additions to existing	
27	tertiary treatment facilities	80
28		
29	(2) ancillary additions to existing	
30	secondary treatment facilities	75
31		
32	D. Collection systems or collector sewers:	
33	(1) collection system or collector	
34	sewer	10
35		
36	(2) improvement of collection	
37	system or collector sewer reliability	10
38		
39	E. Control of combined sewer overflow	150
40		

41 Subp. 2. Description of project types. Project types are
42 described as follows:

43 A. Major treatment facilities are new facilities or
44 additions to existing facilities which improve effluent quality
45 in order that a municipality may achieve compliance with its
46 NPDES/SDS permit conditions. Major treatment facilities include
47 sewer system rehabilitation projects as described in subpart 3,

1 item A, and major interceptor sewers and may include sewer
2 system rehabilitation projects in subpart 4.

3 (1) Land application systems and stabilization
4 ponds that are proposed as an alternative to tertiary and
5 secondary treatment facilities that discharge to waters of the
6 state are considered tertiary treatment and secondary treatment
7 for purposes of project priority. Whether a land application
8 system or stabilization pond is a tertiary or secondary
9 treatment system is determined as based on the effluent
10 limitations applicable to discharges to the receiving water.

11 (2) Subsurface disposal systems, including septic
12 tanks, designed to treat an average daily flow of not more than
13 1,200 gallons and the drainfield portion and one central septic
14 tank to treat an average daily flow in excess of 1,200 gallons
15 are considered secondary treatment for purposes of project
16 priority.

17 B. Dechlorination facilities are facilities that
18 remove chlorine from the effluent of a wastewater treatment
19 facility. When a municipality is listed on the municipal needs
20 list for major treatment facilities, the facilities described in
21 this item ~~may~~ will be included as part of that project.

22 C. Ancillary additions to existing tertiary or
23 secondary treatment facilities are additions that are not major
24 treatment facilities, dechlorination facilities, or collector
25 sewers. When a municipality is listed on the municipal needs
26 list for a major treatment facility, the facilities described in
27 this item will be included as part of that project.

28 D. A collection system or collector sewer is a
29 sanitary sewer, specifically constructed to carry raw or
30 partially treated wastewater and providing collection system
31 reliability such as alternative power or dual pumps, that is not
32 a major interceptor sewer or a relief sewer. For treatment
33 works including subsurface disposal systems designed to treat an
34 average daily flow in excess of 1,200 gallons, a collection
35 system includes devices such as grinder pumps and septic tanks
36 that will partly treat the wastewater, as well as septic tank

1 effluent pumps and small diameter sewers that will pump and
2 convey the partially treated waste.

3 E. A project for the control of combined sewer
4 overflow is a project designed to eliminate bypasses caused by
5 insufficient hydraulic capacity in combined storm and sanitary
6 sewers. A combined sewer overflow project is not eligible for
7 priority points under subpart 1, item E unless the project is
8 necessary to meet requirements of the municipality's NPDES/SDS
9 permit.

10 Subp. 3. **Special restrictions for sewer system**
11 **rehabilitation projects.** Special restrictions for sewer system
12 rehabilitation projects are as follows:

13 A. In order for a sewer system rehabilitation project
14 to be eligible for priority points under subpart 1, item A, the
15 municipality must not have obtained a grant for wastewater
16 treatment facility construction since February 11, 1974, and
17 sewer system rehabilitation must be justified by an
18 infiltration/inflow analysis and sewer system evaluation survey
19 that complies with part 7077.0150, subpart 2, item C.

20 B. A municipality proposing to undertake a sewer
21 system rehabilitation project that does not meet the criteria in
22 item A shall be awarded the priority points credited to a
23 collection system or collector sewer under subpart 1, item D.

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

31 7077.0135 EXTRA POINTS.

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

35 A. A municipality that proposes a project that will

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

7 (1) information on geologic and soil conditions
8 including soil types, permeabilities, and presence or absence of
9 confining units;

10 (2) groundwater flow patterns in the area of the
11 facility or proposed facility;

12 (3) an assessment of the extent and magnitude of
13 the contaminant plume;

14 (4) an identification of water users and
15 assessment of the amount of water appropriations in the area of
16 the facility or proposed facility;

17 (5) flow rates and flow patterns of surface
18 waters;

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

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

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

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

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

34 (1) A municipality that presently has a
35 collection system serving 50 percent or more of the population
36 but provides no treatment before discharge, or a municipality

1 which collects an average daily flow exceeding 1,000,000 gallons
2 through a system without combined sewers and which has bypassed
3 sewage more than 40 percent of the time over a period of at
4 least two years while its plant is operating at full capacity,
5 shall be awarded 40 extra points.

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

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

14 (4) A municipality that discharges untreated
15 sewage as a result of combined sewer overflows shall be awarded
16 20 extra points.

17 C. A municipality that proposes a project that is an
18 integral part of a watershed pollution abatement plan shall be
19 awarded 15 extra points. A municipality is not entitled to the
20 15 extra points under this provision unless the agency received
21 the plan for review by December 1, and it is in approvable
22 condition by May 1, before the beginning of the fiscal year for
23 which funding is sought. A watershed pollution abatement plan
24 shall include the following:

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

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

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

36 (4) objectives and policies, including management

1 plans for water quality and natural resource protection;

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

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

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

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

14 E. A municipality proposing to undertake a project
15 that will result in the elimination of a point source discharge
16 to a game fish lake or outstanding resource value water, or the
17 elimination of a discharge that has an adverse impact on a game
18 fish lake or outstanding resource value water shall be awarded
19 ten extra points. A game fish lake is a lake managed for
20 propagation of game fish species and used for fisheries and
21 recreation. There may be occasional but not regular winter kill
22 in a game fish lake.

23 F. Ten extra points will be awarded to a sanitary
24 district or other multimunicipal wastewater treatment project.

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

27 H. A municipality which does not qualify for the
28 points awarded in item G and which is in compliance with its
29 NPDES/SDS permit conditions less than 90 percent of the time
30 during a one-year period computed on the basis of the interval
31 appropriate to the limitation shall be awarded 20 extra points.
32 Periods of noncompliance caused by inadequate operation and
33 maintenance or negligence on the part of any person are not
34 included in the percentage computation for the purposes of this
35 definition.

1 7077.0140 TOTAL POINTS.

2 The total points to be awarded a municipality for placement
3 on the municipal needs list is the sum of the priority points
4 awarded under one of the provisions of parts 7077.0120,
5 7077.0125, and 7077.0130, and one or more of the provisions of
6 part 7077.0135.

7 7077.0145 RESOLUTION OF EQUAL POINT RATINGS.

8 If, in the determination of the order of priority on the
9 municipal needs list, two or more municipalities have the same
10 total number of points, the municipality with the highest
11 priority points under part 7077.0120 for water use is ranked
12 higher. If two or more municipalities have the same total
13 number of points and the same priority points under part
14 7077.0120 for water use, the municipalities are ranked based on
15 population under part 7077.0125.

16 7077.0150 FACILITIES PLAN.

17 Subpart 1. In general. A municipality must have a
18 facilities plan approved by the commissioner before it will be
19 considered for placement on the municipal project list for a
20 construction grant or the intended use plan for a construction
21 loan. A facilities plan must be prepared and signed by a
22 professional engineer registered in the state and submitted to
23 the agency according to part 7077.0205, subpart 2, items B and C.

24 Subp. 2. Facilities plan contents. A facilities plan must
25 include:

26 A. A complete description and evaluation of the
27 existing treatment facility, including information about the
28 age, condition, design capacity, and treatment capabilities of
29 each treatment unit, an analysis of the facility's ability to
30 meet current permit requirements, and the location, frequency,
31 and quantity of any bypasses.

32 B. Data describing existing flows that accurately
33 represent flows during rain events and high groundwater
34 conditions. Flow data must be based on actual flow monitoring
35 for at least 30 consecutive days.

1 C. An analysis of inflow and infiltration in the
2 existing sewer system to determine whether excessive levels of
3 inflow or infiltration exist as defined in part 7077.0105,
4 subparts 12 and 13. If excessive levels of inflow or
5 infiltration are determined to exist, a sewer system evaluation
6 survey must be conducted to identify the specific sources of
7 inflow and infiltration and the estimated flows from each source.

8 D. Projected flows and loadings within the next five-
9 and 20-year periods based on projected population growth and
10 letters of intent from major contributing industries.

11 E. A cost effectiveness analysis of all feasible
12 treatment works, processes, and techniques capable of meeting
13 the applicable effluent, water quality, and public health
14 requirements for 20 years. If excessive levels of
15 inflow/infiltration are determined to exist under item C, the
16 cost effectiveness analysis of treatment alternatives must
17 include a comparison of the costs of eliminating excessive
18 inflow/infiltration with the costs of transportation and
19 treatment of the inflow/infiltration. For unsewered and
20 partially unsewered communities, consideration must be given to
21 on-site treatment systems. The following information must be
22 provided for each treatment alternative considered:

23 (1) a detailed breakdown of the present worth of
24 all capital costs, annual operation and maintenance costs,
25 equipment replacement costs, and salvage costs; and

26 (2) a site assessment conducted by a registered
27 engineer or geotechnical engineer of the existing soil and
28 groundwater conditions.

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

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

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

36 (3) estimated annual sewer service charges;

1 (4) a determination of whether pretreatment of
2 any industrial wastes is needed in order not to disrupt the
3 proper operation of the proposed facility;

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

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

10 (7) a description of any ordinances or
11 intermunicipal agreements necessary for the successful
12 implementation and administration of the project; and

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

15 G. An evaluation of the environmental impacts,
16 including:

17 (1) a description of the potential impacts of the
18 selected treatment alternative on wetlands; floodplains; areas
19 of archaeological, cultural, and historical significance;
20 endangered or threatened species; wild and scenic rivers;
21 farmlands; air quality; fish and wildlife; open space and
22 recreation opportunities; and

23 (2) a comparison of the potential environmental
24 impacts of the selected treatment alternative with the other
25 treatment alternatives considered in the cost effectiveness
26 analysis.

27 Subp. 3. **Public hearing.** Before adopting the facilities
28 plan, the municipality must hold at least one public hearing to
29 discuss the proposed facilities plan. The proposed facilities
30 plan must be made available for review by interested persons
31 before the date of the hearing. At the public hearing,
32 information must be presented on the various treatment
33 alternatives considered, the reasons for choosing the selected
34 alternative, the location of the proposed project site, and the
35 estimated sewer service charges. A summary of the information
36 presented and public comments received at the public hearing

1 must be provided to the commissioner before the commissioner's
2 approval of the facilities plan.

3 Subp. 4. Adoption. Before the commissioner's approval of
4 the facilities plan, the municipality must adopt the facilities
5 plan through a formal resolution of the municipality's governing
6 body.

7 7077.0155 PLANS AND SPECIFICATIONS.

8 Subpart 1. In general. A municipality must submit plans
9 and specifications or a council resolution to the commissioner
10 according to part 7077.0205, subpart 2, item D, before it will
11 be considered for placement on the municipal project list. The
12 plans and specifications must be consistent with the scope of
13 the approved facilities plan under part 7077.0150. The project
14 must be constructed according to the approved plans and
15 specifications and change orders.

16 Subp. 2. Contents. A complete set of plans and
17 specifications must include:

18 A. drawings and specifications signed by a
19 professional engineer registered in Minnesota;

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

22 C. a summary of flow conditions for average dry
23 weather, average wet weather, maximum wet weather, peak hourly
24 and instantaneous wet weather on a form provided by the agency;

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

27 E. a plan for interim treatment during construction;

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

30 G. administrative, bidding, and contract documents
31 according to the applicable requirements under Minnesota
32 Statutes, chapters 412, 429, and 471 including, at a minimum:

33 (1) five percent bid bond;

34 (2) 100 percent payment bond;

35 (3) 100 percent performance bond; and

1 (4) prevailing wage certifications issued by the
2 Minnesota Department of Labor and Industry.

3 7077.0160 RATE SYSTEM AND ORDINANCES.

4 Subpart 1. In general. A municipality must submit a sewer
5 service charge system, a sewer rate ordinance, and a sewer use
6 ordinance or a council resolution to the commissioner according
7 to part 7077.0205, subpart 2, item D, before it will be
8 considered for placement on the municipal project list. The
9 sewer service charge system, sewer rate ordinance, and sewer use
10 ordinance must demonstrate that the municipality has the legal
11 and financial capability to ensure adequate construction and
12 operation and maintenance of the wastewater treatment facility.
13 The rate system and ordinances must be enacted according to part
14 7077.0260, subpart 2, item C, to ensure full payment of the
15 grant.

16 Subp. 2. Sewer service charge system. A sewer service
17 charge system must include:

18 A. The engineering and accounting data for the
19 wastewater flows and loadings of the users of the wastewater
20 treatment facility.

21 B. The estimated annual costs of equipment
22 replacement, and operating and maintaining the facility.

23 C. The rates that will be charged to each user for
24 the user's share of the annual costs of equipment replacement
25 and operation and maintenance of the treatment facility in
26 proportion to the user's contribution of wastewater flow and
27 loadings and according to the rate formula established in the
28 sewer rate ordinance. The costs of treating infiltration and
29 inflow and the costs of administration may be charged through
30 other methods than proportionality, but the manner in which the
31 charges will be distributed must be justified and described.

32 D. The rates that will be charged to each user for
33 the cost of the debt retirement for the local capital cost of
34 the treatment facility. The debt charge need not be
35 proportionally assessed against each user, but the manner in

1 which the charge will be distributed must be described.

2 Subp. 3. Sewer rate ordinance. The sewer rate ordinance
3 must include the following minimum provisions:

4 A. the rate setting method for proportionate user
5 charges;

6 B. the rate setting method for debt charges; and

7 C. separate accounts for:

8 (1) operation and maintenance;

9 (2) equipment replacement; and

10 (3) debt retirement; and

11 D. administrative procedures for the financial
12 management of the sewer service charges.

13 Subp. 4. Sewer use ordinance. The sewer use ordinance
14 must include the following minimum provisions:

15 A. prohibition of new connections from inflow
16 sources;

17 B. new sewers and connections must be properly
18 designed and constructed; and

19 C. prohibition of toxics and other pollutants in
20 amounts or concentrations that endanger public safety or the
21 physical integrity of the treatment facility or cause violation
22 of permit limitations.

23 STATE INDEPENDENT GRANTS PROGRAM

24 7077.0200 PURPOSE.

25 The state independent grants program provides grants to
26 municipalities for the construction of publicly owned wastewater
27 treatment facilities according to the priority order of the
28 municipal needs list and the provisions of Minnesota Statutes,
29 section 116.18, subdivision 3a. The program is jointly
30 administered by the Minnesota Pollution Control Agency and the
31 Minnesota Public Facilities Authority. Parts 7077.0200 to
32 7077.0265 provide for the agency's responsibilities for the
33 administration of the program.

34 7077.0205 MUNICIPAL PROJECT LIST.

35 Subpart 1. Adoption of municipal project list. Each

1 fiscal year the agency shall adopt a municipal project list that
2 identifies, in priority order, the municipalities that are
3 eligible to apply for state independent grants from appropriated
4 funds.

5 The municipal project list shall also list other uses of
6 the appropriated funds including reserves for grant increases
7 and costs of administration.

8 Subp. 2. Requirements for placement on list. To be placed
9 on the municipal project list:

10 A. The municipality must be on the municipal needs
11 list.

12 B. The municipality must submit by December 1 before
13 the beginning of the fiscal year for which the municipal project
14 list is prepared:

15 (1) a facilities plan in conformance with part
16 7077.0150; and

17 (2) if the municipality is proposing to change
18 the selected treatment method or any other major element of a
19 previously approved facilities plan, a facilities plan addendum
20 in conformance with part 7077.0150.

21 C. The municipality must, by May 1 before the
22 beginning of the fiscal year for which the project list is
23 prepared, make all revisions to the documents listed in item B
24 that are necessary to obtain the commissioner's approval.

25 D. The municipality must also submit by May 1 the
26 following documents for the commissioner's review and approval
27 or a resolution of the municipality's governing body agreeing to
28 submit the following documents by the following October 1:

29 (1) plans and specifications in conformance with
30 part 7077.0155, and based on a facilities plan previously
31 approved by the agency;

32 (2) if the municipality is proposing to change
33 the selected treatment method or any other major element of
34 previously approved plans and specifications, a plans and
35 specifications addendum in conformance with part 7077.0155, and
36 based on a previously approved facilities plan;

1 (3) a sewer service charge system under part
2 7077.0160, subpart 2;

3 (4) documentation of how the public has been
4 informed within the past year of the proposed sewer service
5 rates;

6 (5) a sewer rate ordinance under part 7077.0160,
7 subpart 3;

8 (6) a sewer use ordinance under 7077.0160,
9 subpart 4; and

10 (7) if more than one municipality is involved in
11 the project, an unexecuted intermunicipal agreement that sets
12 forth the terms and conditions of joint treatment and the
13 cost-sharing methodology.

14 E. Failure to submit, for the commissioner's review
15 and approval, the documents agreed to in item D by October 1 of
16 the fiscal year for which the municipal project list is prepared
17 will result in the removal of the municipality from the
18 municipal project list.

19 Subp. 3. Preparation of proposed municipal project list.

20 In drafting the proposed municipal project list, the
21 commissioner shall consider the following factors in the order
22 given:

23 A. total dollars available for the purpose of
24 constructing a municipal wastewater treatment facility;

25 B. restrictions and obligations mandated by these
26 parts and applicable state statutes;

27 C. priority rank of projects according to the
28 municipal needs list;

29 D. requirements of subpart 2;

30 E. eligibility of projects according to part
31 7077.0210; and

32 F. additional projects, in priority order, identified
33 by the authority for award under the economic development
34 set-aside under Minnesota Statutes, section 116.18, subdivision
35 3a, paragraph (b).

36 Subp. 4. Reserve list. The municipal project list shall

1 include a list of reserve projects with priority rankings lower
2 than those identified under subpart 3, items A to E.
3 Municipalities listed on the reserve list meeting the
4 requirements under subpart 3, items D and E, may receive funding
5 if funds become available.

6 Subp. 5. Reimbursement list. The municipal project list
7 shall include a list of municipalities that have requested to
8 proceed with their projects and be reimbursed in a subsequent
9 year conditioned upon appropriation of sufficient funds.

10 A. No municipality may be listed on the reimbursement
11 list unless the municipality has submitted a written request for
12 placement on the list and has received approval of the documents
13 listed in subpart 2, items B and D.

14 B. A municipality may retain eligibility of
15 construction and construction related costs incurred before the
16 award of a state independent grant only if:

17 (1) the municipality was on the reimbursement
18 list when construction began;

19 (2) the municipality submitted a complete
20 application, as defined under part 7077.0215, subpart 2, to the
21 commissioner within 90 days after adoption of or amendment to
22 the municipal project list; and

23 (3) the municipality has received written
24 approval of the application from the commissioner before
25 initiating construction.

26 C. Reimbursement projects must be listed in the same
27 order of priority as they appear on the municipal needs list.

28 Subp. 6. Public participation. The commissioner shall
29 prepare a proposed municipal project list and make it available
30 to the public at least 30 days before adoption. A free copy of
31 the proposed list shall be mailed to interested persons upon
32 request. Municipalities affected by the proposed list shall be
33 given notice at least 30 days in advance of the agency board
34 meeting at which the list will be considered for adoption.

35 7077.0210 ELIGIBILITY.

1 Subpart 1. Project eligibility. The provisions in items A
2 to C govern project eligibility.

3 A. Only the cost-effective implementable alternative
4 determined according to part 7077.0150, subpart 2, and
5 identified in an approved facilities plan is eligible to receive
6 grant assistance, unless a municipality receives an exemption
7 under item B.

8 B. The commissioner ~~may~~ shall grant an exemption to
9 the required 20-year planning period for the cost-effectiveness
10 analysis under part 7077.0150, subpart 2, item E, to a
11 municipality under 1,500 population ~~for-reasons-of~~ where the
12 commissioner finds that construction of the 20-year
13 cost-effective alternative would result in significant financial
14 hardship. In determining significant financial hardship, the
15 commissioner shall consider the municipality's median household
16 income, the estimated sewer service charge for the 20-year
17 cost-effective alternative, the municipality's total bonded
18 indebtedness, and the patterns of population and
19 commercial-industrial growth or decline within the
20 municipality. If an exemption is granted, the municipality may
21 receive grant assistance for a proposed treatment alternative
22 that is different than the 20-year cost-effective alternative.
23 A municipality must submit a written request for this exemption
24 that includes:

25 (1) a description of the proposed treatment
26 alternative and a discussion of the extent to which it fails to
27 satisfy the 20-year cost-effectiveness analysis;

28 (2) an explanation, including any necessary
29 supporting documentation, of why the 20-year cost-effective
30 alternative identified in the facilities plan would create a
31 significant financial hardship for the municipality;

32 (3) a plan for reevaluating the municipality's
33 wastewater treatment needs at a specific time in the future; and

34 (4) a resolution of the municipality's governing
35 body that supports the municipality's request to construct a
36 treatment alternative other than that identified in the

1 facilities plan as the 20-year cost-effective alternative, and
2 provides a formal commitment to reevaluate the municipality's
3 wastewater treatment needs at a specific time in the future.

4 C. Grant assistance is not available for a project or
5 portion of a project if the principal purpose is the treatment
6 or conveyance of industrial wastewater.

7 Subp. 2. **Cost eligibility.** The following categories of
8 costs related to the construction of the approved treatment
9 alternative under subpart 1 are eligible for grant assistance:

10 A. costs of only those items identified in the
11 approved plans and specifications and change orders that are
12 necessary to construct a treatment facility that complies with
13 NPDES/SDS permit requirements;

14 B. costs of procuring construction contractors;

15 C. costs relating to construction and start-up
16 engineering services;

17 D. costs of providing full-time inspection of the
18 project construction;

19 E. costs of land on which stabilization ponds will be
20 built;

21 F. a contingency fund equal to three percent of the
22 grant eligible construction costs;

23 G. costs associated with unanticipated site
24 conditions as specified under part 7077.0240, subpart 2; and

25 H. costs incurred for project planning, design,
26 administration, and legal services up to a maximum of 12 percent
27 of the grant eligible construction costs for municipalities of
28 1,500 or less population and ten percent of the grant eligible
29 construction costs for municipalities over 1,500 population. If
30 a municipality has previously received funding for planning or
31 design, the eligible costs from previous awards for planning or
32 design will be subtracted from the eligible costs in this item.

33 Subp. 3. **Timing of eligible costs.** The following items
34 govern the grant eligibility of project costs:

35 A. Costs of construction and construction related
36 engineering and inspection services incurred before the

1 certification of a grant application by the commissioner to the
2 authority are ineligible unless the municipality receives prior
3 written approval from the commissioner.

4 B. Costs of purchasing the land identified in subpart
5 2, item E, incurred before the approval of a facilities plan by
6 the commissioner are ineligible unless the municipality receives
7 prior written approval from the commissioner.

8 7077.0215 GRANT APPLICATIONS.

9 Subpart 1. **Agency notification.** The commissioner shall
10 notify each municipality of its placement on the municipal
11 project list. No municipality shall submit a state independent
12 grant application unless it has been notified by the
13 commissioner in writing that it is on this list.

14 Subp. 2. **Complete application required.** No municipality
15 may be eligible for a state independent grant unless a complete
16 grant application has been submitted to the authority. A
17 complete application must include all documents required under
18 subparts 3 and 4.

19 Subp. 3. **Timing and form of application.** The following
20 provisions govern the timing and form of grant applications:

21 A. The application for grant funds shall be on forms
22 provided by the agency and the authority.

23 B. A municipality on the municipal project list shall
24 submit a complete construction grant application to the
25 authority within 90 days after the date on which the agency
26 adopts that fiscal year's municipal project list.

27 C. If a land acquisition legal opinion, specified
28 under subpart 4, item F, is unobtainable at the time of
29 application, a land acquisition status report and schedule must
30 be included with the application. If the legal opinion is not
31 received at the agency by the following April 1, the application
32 must be rejected and the project must be removed from the
33 municipal project list for that fiscal year.

34 Subp. 4. **Application requirements.** A municipality that
35 applies for a construction grant shall, in addition to

1 submitting the completed application form, submit the following
2 information for the commissioner's review and approval:

3 A. A proposed engineering contract that includes, at
4 a minimum, the following provisions:

5 (1) full-time inspection during construction and
6 written monthly reports submitted to the agency describing the
7 type of construction inspected and the time involved in
8 inspection;

9 (2) two sets of "as built" plans and
10 specifications on microfiche for submittal to the agency;

11 (3) preparation of an operation and maintenance
12 manual; and

13 (4) start-up services during the first year of
14 operation, including:

15 (a) direct the operation of the project and
16 revise the operation and maintenance manual as necessary to
17 accommodate actual operating experience;

18 (b) training or providing for training of
19 operating personnel and prepare necessary curricula and training
20 materials; and

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

23 B. A certificate of adequate errors and omissions
24 insurance carried by the engineering firm.

25 C. A signature and registration number of the
26 consulting engineer accompanying the following certification
27 statement:

28 The facilities described in this application have been
29 designed based on data that has been verified to
30 accurately represent present and future flows and
31 loadings and with full knowledge of the effluent
32 limitations required by the Minnesota Pollution
33 Control Agency as set forth in NPDES Permit No.
34 dated It is my judgment and carefully
35 considered opinion that these facilities ~~are~~ will be
36 capable of consistently producing the required

1 effluent quality, provided that the facilities are
2 operated in conformance with the approved operation
3 and maintenance manual and that the volume and
4 characteristics of raw wastewater are within the
5 limits of the flow data presented in the plans and
6 specifications under the requirements of Minnesota
7 Rules, part 7077.0155, subpart 2, item C.

8 D. A treatment agreement with each major contributing
9 industry.

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

13 F. A legal opinion identifying that the municipality
14 has sufficient legal vested interest in all sites, easements, or
15 rights-of-way to ensure immediate construction and undisturbed
16 use for the estimated life of the facilities. If this opinion
17 can not be submitted at the time of application, a land
18 acquisition status report and schedule must be provided.

19 G. A project schedule on a form provided by the
20 agency.

21 Subp. 5. **Three copies.** State independent grant
22 application forms and attachments must be submitted in
23 triplicate to the authority. At least one set of forms and
24 attachments must contain original signatures.

25 7077.0220 APPROVAL AND CERTIFICATION OF GRANT APPLICATIONS.

26 Subpart 1. **Approval.** The commissioner shall approve grant
27 applications from municipalities that:

28 A. meet the requirements of parts 7077.0205, subpart
29 2, item D; and 7077.0215, subparts 3 and 4, within 180 days of
30 the date the agency received a complete application;

31 B. complete the environmental review process
32 requirements in chapter 4410 and Minnesota Statutes, chapter
33 116D; and

34 C. obtain the required NPDES/SDS permits.

35 Subp. 2. **Certification.** The commissioner shall certify

1 each approved grant application to the authority for award.
2 Grant eligible costs under part 7077.0210, subpart 2, items B to
3 D, will be determined at the time of certification. Following
4 certification, grant eligible costs under these items can be
5 increased only through the approval of an unanticipated site
6 condition amendment under part 7077.0240, subpart 2, or through
7 the use of contingency funds under part 7077.0210, subpart 2,
8 item F, approved by the commissioner.

9 7077.0225 REJECTION OF GRANT APPLICATIONS.

10 Subpart 1. **Grounds.** A municipality's grant application
11 for a project on the municipal project list may be rejected by
12 the commissioner if it cannot receive approval under part
13 7077.0220.

14 Subp. 2. **Effect of rejection.** When a grant application is
15 rejected, the commissioner shall remove the municipality from
16 the municipal project list for that fiscal year.

17 7077.0230 CONTRACT ASSIGNMENT.

18 A municipality that enters into a contract with a
19 contractor or engineer for the planning, design, or construction
20 of a part of or an entire wastewater treatment system, to be
21 paid for in whole or in part by state independent grant funds,
22 shall provide in the contract that any or all of its rights and
23 duties thereunder may be assigned to the commissioner without
24 the agreement of the contractor or engineer. The assignment may
25 be made by mutual agreement between the municipality and the
26 commissioner or according to an agency assumption of municipal
27 powers under Minnesota Statutes, section 115.48.

28 7077.0235 CONTRACT BENEFICIARY.

29 A municipality that enters into a contract with a
30 contractor or engineer for the planning, design, or construction
31 of a part of or an entire wastewater treatment system, to be
32 paid for in whole or in part by state independent grant funds,
33 shall provide in the contract that the agency is a third-party
34 beneficiary to the contract.

1 7077.0240 GRANT AMENDMENTS.

2 Subpart 1. After-bid amendments. A municipality shall
3 submit to the authority a written request for an after-bid
4 amendment when actual construction contracts costs differ from
5 construction costs estimated in the grant certification. Final
6 grant eligible construction costs are based on the amounts in
7 the signed construction contracts. No further amendments for
8 additional construction costs will be considered except as
9 provided under subpart 2. The commissioner shall certify the
10 amendment to the authority if funds are available and the costs
11 are eligible and reasonable.

12 Subp. 2. Unanticipated site condition amendments. Only
13 cost overruns caused by unanticipated site conditions are
14 eligible for grant amendments once final grant eligible
15 construction costs based on the amounts in the signed
16 construction contracts are determined under subpart 1.

17 A. Where the commissioner finds that unanticipated
18 site conditions exist, the commissioner ~~may~~ shall approve an
19 amendment for up to two percent of the final grant eligible
20 construction costs ~~to-compensate-for-unanticipated-site~~
21 ~~conditions-encountered-during-construction.~~ The three percent
22 contingency fund under part 7077.0210, subpart 2, item F, must
23 be depleted before an amendment for unanticipated site
24 conditions is approved.

25 B. A written request by the municipality for an
26 unanticipated site condition amendment must include:

- 27 (1) an explanation of why the site condition
28 causing the cost overrun was unanticipated;
29 (2) a change order that defines the scope and
30 cost of the work;
31 (3) a breakdown of costs and tasks;
32 (4) an amended engineering contract, if
33 applicable; and
34 (5) a budget period extension request, if
35 applicable.

1 7077.0245 CHANGE ORDERS.

2 Subpart 1. In general. A change order must be submitted
3 to the commissioner for any change that:

- 4 A. alters the design or scope of the project;
- 5 B. increases or decreases the contract price;
- 6 C. changes the construction completion date;
- 7 D. causes a deviation from the approved plans and
8 specifications; or
- 9 E. causes a substitution or replacement of equipment,
10 suppliers, or subcontractors.

11 Subp. 2. Contents. Change orders submitted to the
12 commissioner must contain the following:

- 13 A. signatures of the municipality's authorized
14 representative, the project engineer, and the contractor;
- 15 B. the date on which the municipality and the
16 contractor executed the change order;
- 17 C. identification of grant eligible and ineligible
18 costs;
- 19 D. a complete description and justification of the
20 change;
- 21 E. an explanation of why the change was not included
22 in the original plans and specifications and contractor's bid;
- 23 F. a detailed cost breakdown for the change from the
24 contractor showing the costs of materials, labor, overhead, and
25 profit; and
- 26 G. a cost estimate for the change from the project
27 engineer and an analysis of any differences between the
28 engineer's estimate and the contractor's cost breakdown. If the
29 project engineer's estimate differs from the contractor's price
30 by more than ten percent, an explanation of how the costs were
31 agreed to is required.

32 Subp. 3. Eligible costs. The following costs associated
33 with approved change orders are eligible for grant assistance:

- 34 A. construction costs resulting from defects in the
35 plans and specifications that would have been eligible and would

1 have been incurred if the plans and specifications had been free
2 of the defects, excluding the costs of any rework, redesign,
3 restocking, small tools, supervision, delay, acceleration, or
4 disruption caused by the defects;

5 B. costs determined by the commissioner to be the
6 result of unanticipated site conditions;

7 C. combined profit and overhead costs for the
8 contractor or subcontractor that actually performs the change
9 order work not exceeding 15 percent of the costs of materials
10 and labor;

11 D. combined profit and overhead costs for a
12 contractor or subcontractor that administers the change order
13 but does not actually perform the change order work not
14 exceeding five percent of the costs of materials and labor.

15 Subp. 4. **Approval of change orders.** Approval of change
16 orders is required as follows:

17 A. Proposed changes that substantially alter the type
18 of treatment process, or its efficiency, versatility, or
19 reliability, must be submitted to the commissioner for prior
20 approval.

21 B. Change orders not requiring the commissioner's
22 prior approval under item A must be submitted to the
23 commissioner for review and approval within one month after the
24 date on which the municipality, its engineer, or other
25 authorized agent, and the contractor execute the change order.

26 C. Proposed changes described in item A do not
27 require prior written approval from the commissioner when the
28 work is agreed by the commissioner to be of an emergency nature.

29 7077.0250 COMPLETION OF CONSTRUCTION.

30 Subpart 1. **Building completion.** Building completion is
31 the date when all major components of a project have been built,
32 all equipment is operational, start-up testing has been
33 completed, and the project is capable of functioning as
34 designed. At this point the municipality must notify the
35 commissioner it is ready to initiate operation and request that

1 a prefinal inspection be scheduled.

2 Subp. 2. Initiation of operation. Initiation of operation
3 is the date the project begins operating for the purposes for
4 which it was planned, designed, and built. A project must not
5 initiate operation until it receives approval from the
6 commissioner.

7 A. The municipality must notify the commissioner in
8 writing of the initiation of operation date within ten days
9 following initiation of ~~initiating~~ operation.

10 B. The date of initiation of operation is the first
11 day of the one year performance period.

12 Subp. 3. Final inspection. A final inspection of the
13 treatment facility must be performed by agency staff when all
14 the construction is complete except for minor weather-related
15 components. The purpose of the inspection is to verify that
16 construction is complete and conforms with the approved plans,
17 specifications, and change orders. A municipality requests that
18 a final inspection be performed when it believes construction is
19 complete. At the final inspection, any outstanding change
20 orders must be identified and a cut-off date for incurring grant
21 eligible construction related costs must be established.

22 7077.0255 PROJECT PERFORMANCE.

23 Subpart 1. Performance certification. One year after the
24 initiation of operation of the project, the municipality shall
25 submit to the commissioner the following items:

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

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

31 (2) the municipality has a sufficient number of
32 trained and capable personnel to provide adequate operation and
33 maintenance of the project, and the project requires only
34 operation and maintenance as outlined as normal and routine in
35 the approved operation and maintenance manual;

1 (3) the project accepts hydraulic and organic
2 loading to the extent described in the approved design
3 specifications and is in compliance with all NPDES/SDS permit
4 requirements;

5 (4) industrial wastewater discharges to the
6 treatment facility do not interfere with the operation of the
7 project or the disposal or use of municipal sludges;

8 (5) sludge treatment and disposal is accomplished
9 in conformance with chapter 7040 or parts 7005.2350 to
10 7005.2400, as applicable; and

11 (6) the project meets the requirements in the
12 approved plans and specifications for the prevention of
13 contamination of underground drinking water sources beyond the
14 property boundary, if applicable;

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

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

20 D. a certification by the contractor that the project
21 was built according to plans and specifications and change
22 orders; and

23 E. two copies of the "as-built" plans and
24 specifications on microfiche.

25 Subp. 2. **Corrective action report.** If the commissioner or
26 the municipality determines that the project does not meet the
27 project performance standards under subpart 1, item A, the
28 municipality shall:

29 A. submit within 30 days of the performance
30 certification date a corrective action report that includes:

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

33 (2) an estimate of the nature, scope, and cost of
34 the corrective action necessary to bring the project into
35 compliance; and

36 (3) a schedule for initiating, in a timely

1 manner, the necessary corrective action work and for meeting the
2 performance certification requirements following a start-up
3 period that is reasonable for the type of corrective action work
4 to be performed; and

5 B. following the completion of corrective action
6 work, submit a performance certification as specified under
7 subpart 1 according to the schedule in item A, subitem (3).

8 7077.0260 PAYMENT OF STATE INDEPENDENT GRANTS.

9 Subpart 1. Payment request. A municipality must submit
10 written payment requests to the authority. The municipality
11 must include documentation for costs incurred under part
12 7077.0210, subpart 2, item H.

13 Subp. 2. Certification of payment requests. The
14 commissioner shall certify to the authority payment requests for
15 eligible costs incurred according to the following schedule:

16 A. No payments will be certified until the
17 municipality has submitted:

- 18 (1) the accepted bid proposal;
- 19 (2) detailed tabulation of all bids received;
- 20 (3) payment and performance bonds;
- 21 (4) executed construction contract and notice to
22 proceed;
- 23 (5) executed engineering contract; and
- 24 (6) if more than one municipality is involved in
25 the project, an executed intermunicipal agreement.

26 B. Payments will not be certified beyond 50 percent
27 of the construction grant until the municipality has hired a
28 wastewater treatment operator having a valid state certificate
29 appropriate for the facility being constructed.

30 C. Payments will not be certified beyond 80 percent
31 of the construction grant until the municipality has:

- 32 (1) enacted the approved sewer use ordinance;
- 33 (2) enacted the approved sewer rate ordinance;
- 34 (3) adopted by a resolution of the governing body
35 the approved sewer service charge system with updated cost

1 revisions; and

2 (4) received approval of the operation and
3 maintenance manual.

4 D. Payments will not be certified beyond 90 percent
5 of the construction grant until the municipality has met
6 requirements of the performance certification process under part
7 7077.0255. If a project cannot meet these requirements, final
8 payment will not be made until the requirements under part
9 7077.0255, subpart 2, have been completed or the municipality
10 has entered into a legally enforceable agreement with the agency
11 containing a schedule for completing the corrective work.

12 Subp. 3. Retained payments. The commissioner may withhold
13 certification of construction grant payments if the commissioner
14 determines that a project does not substantially conform to
15 approved plans and specifications, or there has been a major
16 breach of a condition in the grant agreement, or the
17 municipality has failed to comply with the applicable
18 requirements of this chapter. If funds are withheld pursuant to
19 this subpart, the commissioner shall certify further payments
20 when the condition causing the withholding has been corrected,
21 or otherwise agreed to by the commissioner and the municipality.

22 7077.0265 RECOVERY OF FUNDS.

23 The commissioner shall recommend that the authority seek
24 the immediate recovery of grant funds if funds are disbursed in
25 excess of eligible costs incurred, or if a project is improperly
26 designed, improperly constructed, or improperly operated and
27 maintained.

28 COMBINED SEWER OVERFLOW ABATEMENT PROGRAM

29 7077.0300 PURPOSE.

30 State financial assistance is available for combined sewer
31 overflow abatement for those municipalities eligible under
32 Minnesota Statutes, section 116.162, subdivision 3. Parts
33 7077.0300 to 7077.0330 provide for the administration of the
34 program.

1 7077.0305 MUNICIPAL PROJECT LIST.

2 Subpart 1. In general. The municipal project list
3 prepared according to part 7077.0205 must contain those projects
4 for which state financial assistance is available for combined
5 sewer overflow abatement.

6 Subp. 2. Requirements for placement on the list. To be
7 placed on the municipal project list, a municipality shall meet
8 the following requirements:

9 A. The municipality must be listed on the municipal
10 needs list.

11 B. The municipality shall submit by June 1 a list and
12 schedule of construction projects to be initiated in the
13 following fiscal year. If the municipality's NPDES/SDS permit
14 provides a different date for submission of the list and
15 schedule, the date in the permit shall take precedence.

16 7077.0310 APPLICATIONS.

17 Subpart 1. Complete application required. No municipality
18 is eligible for combined sewer overflow abatement financial
19 assistance unless a complete application has been submitted to
20 the agency. A complete application must include all documents
21 required under subparts 2 and 3.

22 Subp. 2. Timing and form of application. The following
23 provisions govern the timing and form of financial assistance
24 applications:

25 A. The application shall be on the form provided by
26 the agency.

27 B. A municipality on the final municipal project list
28 for a combined sewer overflow abatement project shall submit a
29 complete application for state financial assistance by December
30 1 following agency adoption of that fiscal year's municipal
31 project list, unless a different date is provided in the
32 municipality's NPDES/SDS permit, in which case the deadline in
33 the permit shall take precedence.

34 Subp. 3. Additional information. A municipality that
35 applies for state financial assistance for a combined sewer

1 overflow abatement project shall submit the following
2 information for the commissioner's review and approval:

3 A. The scope of work contained in the list and
4 schedule submitted the previous June 1, or according to the
5 NPDES/SDS permit, plus additional scope of work as may be
6 necessary to use any additional funds that may become available.

7 B. A resolution of the governing body of the
8 municipality that authorizes the filing of the application and
9 that designates the municipal official authorized to sign the
10 application, financial assistance offer, and other related
11 documents.

12 C. A proposed engineering contract that includes, at
13 a minimum, the following provisions:

14 (1) full-time inspection during construction and
15 written monthly reports submitted to the agency describing the
16 type of construction inspected and the time involved in
17 inspection;

18 (2) two sets of "as-built" plans and
19 specifications on microfiche.

20 D. ~~An-engineer's~~ A certificate of adequate errors and
21 omissions insurance carried by the engineering firm.

22 E. A cost breakdown for all project work to be funded
23 by the financial assistance, including separation of eligible
24 and ineligible items, in a format provided by the agency.

25 F. Plans and specifications as required under part
26 7077.0155 for the scope of work described in item A.

27 G. A project schedule on a form provided by the
28 agency.

29 7077.0315 FINANCIAL ASSISTANCE AWARDS.

30 Each fiscal year that funds are appropriated for combined
31 sewer overflow abatement, the commissioner shall award financial
32 assistance to municipalities that meet the requirements of part
33 7077.0310. The municipalities shall be awarded a proportionate
34 share of the appropriation available in that fiscal year. The
35 proportionate share for each eligible municipality is as follows:

- 1 A. Minneapolis, 24.2 percent;
- 2 B. Saint Paul, 71.6 percent; and
- 3 C. South Saint Paul, 4.2 percent.

4 7077.0320 CHANGE ORDERS.

5 Subpart 1. In general. A change order must be submitted
6 to the commissioner for any change that:

- 7 A. alters the design or scope of the project;
- 8 B. increases or decreases the contract price;
- 9 C. changes the construction completion date;
- 10 D. causes a deviation from the approved plans and
11 specifications; or
- 12 E. causes a substitution or replacement of equipment,
13 suppliers, or subcontractors.

14 Subp. 2. Contents. Change orders submitted to the
15 commissioner must contain the following:

- 16 A. signatures of the municipality's authorized
17 representative, the project engineer, and the contractor;
- 18 B. the date on which the municipality and the
19 contractor executed the change order; and
- 20 C. a complete description of the change.

21 Subp. 3. Approval of change orders. Approval of change
22 orders is required as follows:

23 A. Proposed changes that substantially alter the type
24 of facility or its efficiency, versatility, or reliability, must
25 be submitted to the commissioner for prior approval.

26 B. Change orders not requiring the commissioner's
27 prior approval under item A must be submitted to the
28 commissioner for review and approval within one month after the
29 date on which the municipality, its engineer, or other
30 authorized agent, and the contractor execute the change order.

31 C. Proposed changes described in item A do not
32 require prior written approval from the commissioner when the
33 work is agreed by the commissioner to be of an emergency nature.

34 7077.0325 PROJECT PERFORMANCE.

35 Subpart 1. Notification of initiation of operation.

1 Initiation of operation is the date the project begins operating
2 for the purposes for which it was planned, designed, and built.
3 The municipality shall notify the commissioner, in writing, of
4 the project's initiation of operation date within ten days
5 following initiation of operation.

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

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

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

13 (2) the project accepts hydraulic loading to the
14 extent described in the approved design specifications and
15 complies with all NPDES/SDS permit requirements; and

16 (3) there is complete separation of stormwater
17 and sanitary flows within the project area, with the exception
18 of flows from building rainleader connections authorized under
19 the NPDES/SDS permit;

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

22 C. a certification by the contractor that the project
23 was built according to the approved plans and specifications and
24 change orders; and

25 D. two copies of the "as-built" plans and
26 specifications on microfiche.

27 Subp. 3. Corrective action report. If the commissioner or
28 the municipality determines that the project does not meet the
29 project performance standards under subpart 2, item A, the
30 municipality shall:

31 A. Submit within 30 days of the performance
32 certification date a corrective action report that includes:

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

35 (2) an estimate of the nature, scope, and cost of
36 the corrective action necessary to bring the project into

1 compliance; and

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

7 B. Following the completion of corrective action
8 work, submit a performance certification as specified under
9 subpart 1 according to the schedule in item A, subitem (3).

10 7077.0330 PAYMENT OF STATE FINANCIAL ASSISTANCE.

11 Subpart 1. Payments up to 90 percent of assistance. The
12 municipality may request in writing periodic payments as work on
13 the project progresses up to 90 percent of the total amount of
14 the financial assistance award. No payments will be made for
15 project work until the municipality has submitted the following
16 items, if applicable:

- 17 A. the accepted bid proposal;
18 B. detailed tabulation of all bids received;
19 C. payment and performance bonds; and
20 D. executed construction contract and notice to
21 proceed.

22 Subp. 2. Payments beyond 90 percent of assistance.
23 Payments will not be made beyond 90 percent of the financial
24 assistance amount until a final inspection of the project is
25 performed by agency staff and the municipality has met the
26 requirements of part 7077.0325.

27 Subp. 3. Retained payments. Financial assistance payments
28 ~~may~~ shall be withheld if the commissioner determines that a
29 project does not substantially conform to approved plans and
30 specifications, or there has been a major breach of a condition
31 in the financial assistance agreement, or the municipality has
32 failed to comply with the applicable requirements of this
33 chapter. If funds are withheld pursuant to this subpart,
34 further payments will be made when the condition causing the
35 withholding has been corrected, or as otherwise agreed to by the

1 commissioner and the municipality.

2 WATER POLLUTION CONTROL REVOLVING FUND PROGRAM

3 7077.0400 PURPOSE.

4 The water pollution control revolving fund program provides
5 loans and other forms of financial assistance to municipalities
6 for the planning, design, and construction of publicly owned
7 wastewater treatment facilities according to Title VI of the act
8 and Minnesota Statutes, section 446A.07. The program is jointly
9 administered by the Minnesota Pollution Control Agency and the
10 Minnesota Public Facilities Authority. Parts 7077.0400 to
11 7077.0445 provide for the agency's responsibilities for the
12 administration of the program and apply to loans and other forms
13 of financial assistance awarded before, on, or after July 1,
14 1990.

15 7077.0405 INTENDED USE PLAN.

16 Subpart 1. Adoption of intended use plan. The agency
17 shall annually adopt an intended use plan based upon the
18 requests received under subpart 3. The agency will amend the
19 intended use plan to add additional eligible projects as
20 necessary.

21 Subp. 2. Eligibility. To be eligible for placement on the
22 intended use plan, a municipality's project must be listed on
23 the current municipal needs list.

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

27 A. The municipality must submit to the commissioner a
28 written request for placement on the intended use plan that
29 includes:

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

32 (2) a project cost estimate; and

33 (3) a proposed project schedule and a breakdown
34 of estimated quarterly cash flow needs.

35 B. For a construction loan, a municipality must first

1 receive the commissioner's approval of its facilities plan, as
2 required under part 7077.0150, before it will be placed on the
3 intended use plan. If the municipality is proposing to change
4 the selected treatment method or any other major element of a
5 previously approved facilities plan, the municipality must
6 receive the commissioner's approval of a facilities plan
7 addendum.

8 7077.0410 APPLICATIONS.

9 Subpart 1. Form of application. A municipality identified
10 on the intended use plan must submit an application to the
11 executive director of the authority on forms provided by the
12 authority and the agency.

13 Subp. 2. Planning loans. In addition to any other
14 information required by the authority, a municipality applying
15 for a planning loan shall include the following items for the
16 commissioner's review and approval as part of its application:

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

19 B. a schedule for completion of the facilities plan
20 on a form provided by the agency;

21 C. ~~an-engineer's~~ a certificate of adequate errors and
22 omissions insurance carried by the engineering firm; and

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

28 Subp. 3. Design loans. In addition to any other
29 information required by the authority, a municipality applying
30 for a design loan shall include the following items for the
31 commissioner's review and approval as part of its application:

32 A. a schedule for completion of plans and
33 specifications, a sewer service charge system, a sewer rate
34 ordinance, and a sewer use ordinance on a form provided by the
35 agency;

1 B. ~~an-engineer's~~ a certificate of adequate errors and
2 omissions insurance carried by the engineering firm;

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

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

12 Subp. 4. Construction loans. In addition to any other
13 information required by the authority, a municipality applying
14 for a construction loan shall include the following items for
15 the commissioner's review and approval as part of its
16 application.

17 A. Plans and specifications as required under part
18 7077.0155.

19 B. A sewer service charge system as required under
20 part 7077.0160, subpart 2.

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

23 D. A sewer use ordinance as required under part
24 7077.0160, subpart 4.

25 E. A sewer rate ordinance as required under part
26 7077.0160, subpart 3.

27 F. A project schedule on a form provided by the
28 agency.

29 G. A signature and registration number of the
30 consulting engineer accompanying the following certification
31 statement:

32 The facilities described in this application have been
33 designed based on data that has been verified to
34 accurately represent present and future flows and
35 loadings and with full knowledge of the effluent
36 limitations required by the Minnesota Pollution

1 Control Agency as set forth in NPDES Permit No.
2 _____ dated _____. It is my judgment
3 and carefully considered opinion that these facilities
4 ~~are~~ will be capable of consistently producing the
5 required effluent quality, provided that the
6 facilities are operated in conformance with the
7 approved operation and maintenance manual and that the
8 volume and characteristics of raw wastewater are
9 within the limits of the flow data presented in the
10 plans and specifications under the requirements of
11 Minnesota Rules, part 7077.0155, subpart 2, item C.

12 H. ~~An-engineer's~~ A certificate of adequate errors and
13 omissions insurance carried by the engineering firm.

14 I. An engineering contract that includes, at a
15 minimum, the following provisions:

16 (1) full-time inspection during construction and
17 written monthly reports submitted to the agency describing the
18 type of construction inspected and the time involved in
19 inspection;

20 (2) two sets of "as built" plans and
21 specifications on microfiche;

22 (3) preparation of an operation and maintenance
23 manual; and

24 (4) start-up services during the first year of
25 operation, including:

26 (a) direct the operation of the project and
27 revise the operation and maintenance manual as necessary to
28 accommodate actual operating experience;

29 (b) train or provide for training of
30 operating personnel and prepare necessary curricula and training
31 materials; and

32 (c) advise the municipality whether the
33 project is meeting performance standards.

34 J. A certification from the municipality that it will
35 comply with the performance certification requirements in part
36 7077.0440.

1 K. A treatment agreement with each major contributing
2 industry that will discharge wastewater to the new or upgraded
3 system.

4 L. A cost breakdown of all work to be funded under
5 the loan.

6 M. A legal opinion identifying that the municipality
7 has sufficient legal vested interest in all sites, easements, or
8 rights-of-way to ensure immediate construction and undisturbed
9 utilization for the estimated life of the facilities.

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

14 7077.0415 APPLICATION CERTIFICATION.

15 Subpart 1. Planning loans. Upon review and approval of
16 the documents required by part 7077.0410, subpart 2, and a
17 determination that the project meets the applicable requirements
18 of the act, federal regulations, state statutes, and this
19 chapter, the commissioner shall certify the application to the
20 authority.

21 Subp. 2. Design loans. Upon review and approval of the
22 documents required by part 7077.0410, subpart 3, and a
23 determination that the project meets the applicable requirements
24 of the act, federal regulations, state statutes, and this
25 chapter, the commissioner shall certify the application to the
26 authority.

27 Subp. 3. Construction loans. Upon review and approval of
28 the documents required by part 7077.0410, subpart 4, completion
29 of items A and B, and a determination that the project meets the
30 applicable requirements of the act, federal regulations, state
31 statutes, and this chapter, the commissioner shall certify the
32 application to the authority.

33 A. The environmental review requirements of chapter
34 4410, Minnesota Statutes, chapter 116D, and title VI of the act
35 have been satisfactorily met.

1 B. The municipality has obtained a NPDES/SDS permit
2 from the agency for the project.

3 7077.0420 CHANGE ORDERS.

4 Subpart 1. In general. A change order must be submitted
5 to the commissioner for any change that:

- 6 A. alters the design or scope of the project;
7 B. increases or decreases the contract price;
8 C. changes the construction completion date;
9 D. causes a deviation from the approved plans and
10 specifications; or
11 E. causes a substitution or replacement of equipment,
12 suppliers, or subcontractors.

13 Subp. 2. Contents. Change orders submitted to the
14 commissioner must contain the following:

- 15 A. signatures of the municipality's authorized
16 representative, the project engineer, and the contractor;
17 B. date on which the municipality and the contractor
18 executed the change order; and
19 C. a complete description of the change.

20 Subp. 3. Approval of change orders. Approval of a change
21 order is required as follows:

22 A. Proposed changes that substantially alter the type
23 of treatment process, or its efficiency, versatility, or
24 reliability, must be submitted to the commissioner for prior
25 approval.

26 B. Change orders not requiring the commissioner's
27 prior approval under item A must be submitted to the
28 commissioner for review and approval within one month after the
29 date on which the municipality, its engineer, or other
30 authorized agent, and the contractor execute the change order.

31 C. Proposed changes described in item A do not
32 require prior written approval from the commissioner when the
33 work is agreed by the commissioner to be of an emergency nature.

34 7077.0430 CONSTRUCTION LOAN REPORTING REQUIREMENTS.

35 Subpart 1. Sixty days before contract date for completion

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

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

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

9 C. evidence that the approved sewer use ordinance and
10 sewer rate ordinance have been enacted; and

11 D. a resolution of the governing body adopting the
12 approved sewer service charge system with updated cost revisions.

13 Subp. 2. [See Repealer.]

14 7077.0435 COMPLETION OF CONSTRUCTION.

15 Subpart 1. **Building completion.** Building completion is
16 the date when all major components of a project have been built,
17 all equipment is operational, start-up testing has been
18 completed, and the project is capable of functioning as
19 designed. At this point, the municipality must notify the
20 commissioner it is ready to initiate operation and request that
21 a prefinal inspection be scheduled.

22 Subp. 2. **Initiation of operation.** Initiation of operation
23 is the date the project begins operating for the purposes for
24 which it was planned, designed, and built. A project must not
25 initiate operation until it receives approval from the
26 commissioner.

27 A. The municipality must notify the commissioner in
28 writing of the initiation of operation date within ten
29 days following initiation of ~~initiating~~ operation.

30 B. The date of initiation of operation is the first
31 day of the one-year performance period.

32 Subp. 3. **Final inspection.** A final inspection of the
33 treatment facility shall be performed by agency staff when all
34 the construction is complete except for minor weather-related
35 components. The purpose of the inspection is to verify that

1 construction is complete and conforms with the approved plans,
2 specifications, and change orders. A municipality requests that
3 a final inspection be performed when it believes construction is
4 complete.

5 7077.0440 PROJECT PERFORMANCE.

6 Subpart 1. [See Repealer.]

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

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

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

15 (2) the municipality has a sufficient number of
16 trained and capable personnel to provide adequate operation and
17 maintenance of the project, and the project requires only the
18 operation and maintenance as is outlined as normal and routine
19 in the approved operation and maintenance manual;

20 (3) the project accepts hydraulic and organic
21 loading to the extent described in the approved design
22 specifications and complies with all NPDES/SDS permit
23 requirements;

24 (4) industrial wastewater discharges to the
25 treatment works do not interfere with the operation of the
26 project or the disposal or use of municipal sludges;

27 (5) sludge treatment and disposal is accomplished
28 in conformance with chapter 7040 or parts 7005.2350 to
29 7005.2400, as applicable; and

30 (6) the project meets the requirements in the
31 approved plans and specifications for the prevention of
32 contamination of underground drinking water sources beyond the
33 property boundary, if applicable;

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

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

4 D. a certification by the contractor that the project
5 was built according to the approved plans and specifications and
6 change orders; and

7 E. two copies of the "as-built" plans and
8 specifications on microfiche.

9 Subp. 3. **Corrective action report.** If the commissioner or
10 the municipality determines that the project does not meet the
11 project performance standards under subpart 2, item A, the
12 municipality shall:

13 A. submit within 30 days of the performance
14 certification date a corrective action report that includes:

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

17 (2) an estimate of the nature, scope, and cost
18 of the corrective action necessary to bring the project into
19 compliance; and

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

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

28 7077.0445 REQUEST TO WITHHOLD FINANCIAL ASSISTANCE PAYMENTS.

29 Failure of a municipality's project to conform
30 substantially to approved plans and specifications or failure of
31 a municipality to comply with the requirements of part parts
32 7077.0430 and 7077.0440 constitutes grounds for the commissioner
33 to request that the authority withhold payments to the
34 municipality. Once an agreement for correcting the condition
35 leading to the withholding of funds is reached between the

1 commissioner and the municipality, the commissioner will
2 recommend to the authority that the retained funds be released
3 according to the provisions in the agreement.

4 CORRECTIVE ACTION GRANTS PROGRAM

5 7077.0500 PURPOSE.

6 The corrective action grants program provides grants
7 according to Minnesota Statutes, section 116.181, to
8 municipalities with wastewater treatment facilities funded under
9 the Clean Water Act, United States Code, title 33, sections 1281
10 to 1299, or the state independent grants program that are unable
11 to meet performance standards. The grants are for the purpose
12 of correcting performance failures. The program is jointly
13 administered by the Minnesota Pollution Control Agency and the
14 Minnesota Public Facilities Authority. The program applies to
15 grants made before, on, or after July 1, 1990. Parts 7077.0500
16 to 7077.0560 pertain to the agency's responsibilities in
17 administering the program.

18 7077.0505 DEFINITION.

19 Subpart 1. to 4. [See Repealer.]

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

26 7077.0510 ELIGIBILITY FOR PARTICIPATION.

27 To be eligible for participation in the program, a
28 municipality must meet the following requirements:

29 A. The municipality received a wastewater treatment
30 facility construction grant under the Clean Water Act, United
31 States Code, title 33, sections 1281 to 1299, or the state
32 independent construction grants program after December 29,
33 1981. A municipality that received a grant under the individual
34 on-site wastewater treatment system grants program or the

1 capital cost component grant program does not meet this
2 eligibility requirement.

3 B. The population served by the wastewater treatment
4 facility is 1,500 or less.

5 C. The municipality's wastewater treatment facility
6 is unable to meet performance standards and the inability was
7 identified by the commissioner before the end of the one-year
8 performance certification period established by Code of Federal
9 Regulations, title 40, section 35.2218, or part 7077.0250,
10 subpart 2, item B.

11 D. The municipality has not received a grant under
12 the corrective action grants program.

13 7077.0515 ELIGIBLE AND INELIGIBLE COSTS.

14 Subpart 1. Construction and land costs. Construction and
15 land costs retain the same eligibility as they had under the
16 Clean Water Act, United States Code, title 33, sections 1281 to
17 1299, or the state independent grants program at the time of the
18 original construction grant award.

19 Subp. 2. Construction and land costs incurred prior to
20 award. Construction and land costs incurred prior to the
21 commissioner's written approval of the corrective action report
22 are not eligible. Construction and land costs incurred after
23 written approval of the corrective action report and before
24 grant award will be considered eligible at the time of
25 application if the municipality receives the commissioner's
26 written authorization to proceed with construction.

27 Subp. 3. Administrative, engineering, and legal costs.
28 Administrative, engineering, and legal costs (collectively)
29 incurred as a result of the corrective action are eligible up to
30 a maximum of 25 percent of the construction costs approved in
31 the corrective action report and eligible under subpart 1.

32 7077.0525 CONTRACT ASSIGNMENT.

33 A municipality that enters into a contract with a
34 contractor or engineer for the planning, design, or construction
35 of a part of or an entire wastewater treatment system, to be

1 paid for in whole or in part by state corrective action grant
2 funds, shall provide in the contract that any or all of its
3 rights and duties thereunder may be assigned to the commissioner
4 without the agreement of the contractor or engineer. The
5 assignment may be made by mutual agreement between the
6 municipality and the commissioner or according to an agency
7 assumption of municipal powers under Minnesota Statutes, section
8 115.48.

9 7077.0530 CONTRACT BENEFICIARY.

10 A municipality that enters into a contract with a
11 contractor or engineer for the planning, design, or construction
12 of a part of or an entire wastewater treatment system, to be
13 paid for in whole or in part by state corrective action grant
14 funds, shall provide in the contract that the agency is a
15 third-party beneficiary to the contract.

16 7077.0535 APPLICATION.

17 Subpart 1. **Agency notification.** After the preapplication
18 items in part 7077.0520 are approved by agency staff, the
19 commissioner shall notify the municipality that it is eligible
20 to apply for a corrective action grant.

21 Subp. 2. **Application requirements.** The municipality shall
22 apply for a corrective action grant on a form provided by the
23 authority and submit the following information for the
24 commissioner's review and approval:

25 A. A plan, endorsed by resolution of the
26 municipality's governing body, for recovering the costs of the
27 proposed corrective action from the responsible parties.

28 B. A report on the current status of negotiations or
29 litigation.

30 C. A proposed engineering contract that includes, at
31 a minimum, the following provisions:

32 (1) full-time inspection during construction and
33 written monthly reports submitted to the agency describing the
34 type of construction inspected and the time involved in
35 inspection;

(2) two sets of "as built" plans and specifications on microfiche for submittal to the agency;

(3) preparation of an operation and maintenance manual, if applicable; and

(4) start-up services during the first year of operation, if applicable, including:

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

(b) train or provide for training of operating personnel and prepare necessary curricula and training materials; and

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

D. A certificate of adequate errors and omissions insurance carried by the engineering firm.

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

Corrective action for the facilities described in this grant application has been designed with full knowledge of the effluent limitations required by the Minnesota Pollution Control Agency as set forth in NPDES Permit No. dated It is my judgment and carefully considered opinion that the performance standards required by the Minnesota Pollution Control Agency will be met after the work detailed in the approved corrective action report, dated, is completed and that the corrected facilities ~~are~~ will be capable of consistently producing the required effluent quality, provided that the facilities are operated in conformance with the approved operation and maintenance manual and the volume and characteristics of raw wastewater are within the flow data presented in the plans and specifications approved for the original project or in

1 the corrective action report modifications.

2 F. A treatment agreement with each major contributing
3 industry.

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

7 H. If necessary, a comprehensive legal opinion
8 identifying that the municipality has sufficient legal vested
9 interest in all sites, easements, or rights-of-way to ensure
10 immediate construction and undisturbed use for the estimated
11 life of the facilities.

12 Subp. 3. **Three copies.** Corrective action grant
13 application forms and attachments, must be submitted in
14 triplicate to the authority. At least one set of forms and
15 attachments must contain original signatures.

16 7077.0540 CERTIFICATION OF APPLICATION FOR AWARD.

17 Subpart 1. **Priority.** The commissioner shall certify
18 grants to the authority for award in the order that applications
19 that meet the requirements of parts 7077.0520 and 7077.0535 are
20 received and to the extent that funds are available.

21 Subp. 2. **Amount of award.** Except as provided in part
22 7077.0560, subpart 3, the amount of the grant will be 80 percent
23 of the total corrective action costs, eligible and ineligible,
24 or the amount of the eligible costs, whichever is less.

25 Subp. 3. ~~Amendments-to-award---Any-grant-amendments-shall~~
26 ~~be-based-on-the-cost-of-the-completed-procurement-actions-and~~
27 ~~shall-be-dependent-upon-the-availability-of-additional-grant~~
28 ~~funds.~~

29 Subp. 4. **Certification to authority.** Upon review and
30 approval of the documents required under parts 7077.0520 and
31 7077.0535, the commissioner shall certify to the authority that
32 the project meets the statutory requirements and the
33 requirements of this chapter and is eligible for an award in the
34 amount determined under subpart 2.

35 Subp. 5. ~~Report-to-agency-board---The-commissioner-shall~~

1 ~~report-the-certification-of-a-corrective-action-grant-under-this~~
2 ~~part-to-the-agency-board-as-soon-as-possible,-but,-in-any-case,-~~
3 ~~within-60-days.~~

4 7077.0545 GRANT AMENDMENTS.

5 Subpart 1. Maximum grant amount. No grant shall be
6 amended to exceed \$500,000.

7 Subp. 2. After-bid amendments. A municipality shall
8 submit a written request for an after-bid amendment when
9 construction contracts differ from construction costs estimated
10 in the grant certification. After-bid grant amendments shall be
11 based on the cost of the completed procurement actions and shall
12 be dependent upon the availability of additional grant funds.
13 The commissioner shall certify the amendment to the authority if
14 funds are available and the costs are eligible.

15 Subp. 3. Final amendment. A municipality shall submit a
16 written request for a final amendment when construction has been
17 completed. The commissioner shall certify the amendment to the
18 authority if funds are available and the costs are eligible.
19 The amendment shall:

20 A. be based on the eligible construction costs and
21 change orders approved by the commissioner; and

22 B. increase the grant amount under part 7077.0515,
23 subpart 3, ~~for-administrative,-engineering,-and-legal-costs~~ as
24 the amount of grant eligible construction costs increase through
25 approved change orders. ~~This-increase-may-only-be-used-to-pay~~
26 ~~for-engineering-costs,-including-inspection,-created-by-work~~
27 ~~specified-on-the-approved-change-orders.~~

28 7077.0550 CHANGE ORDERS.

29 Subpart 1. In general. A change order must be submitted
30 to the commissioner for any change that:

- 31 A. alters the design or scope of the project;
32 B. increases or decreases the contract price;
33 C. changes the construction completion date;
34 D. causes a deviation from the approved plans and
35 specifications; or

1 E. causes a substitution or replacement of equipment,
2 suppliers, or subcontractors.

3 Subp. 2. Contents. Change orders submitted to the
4 commissioner must contain the following:

5 A. signatures of the municipality's authorized
6 representative, the project engineer, and the contractor;

7 B. date on which the municipality and the contractor
8 execute the change order;

9 C. identification of grant eligible and ineligible
10 costs;

11 D. a complete description and justification of the
12 change;

13 E. an explanation of why the change was not included
14 in the original plans and specifications and contractor's bid;

15 F. a detailed cost breakdown for the change from the
16 contractor showing the costs of materials, labor, overhead, and
17 profit; and

18 G. a cost estimate for the change from the project
19 engineer and an analysis of any differences between the
20 engineer's estimate and the contractor's cost breakdown. If the
21 project engineer's estimate differs from the contractor's price
22 by more than ten percent, an explanation of how the costs were
23 agreed to is required.

24 Subp. 3. Eligible costs. The following costs associated
25 with approved change orders are eligible for grant assistance:

26 A. construction costs resulting from defects in the
27 plans and specifications that would have been eligible and would
28 have been incurred if the plans and specifications had been free
29 of the defects, excluding the costs of any rework, redesign,
30 restocking, small tools, supervision, delay, acceleration, or
31 disruption caused by the defects;

32 B. costs, determined by the commissioner to be the
33 result of unanticipated site conditions;

34 C. combined profit and overhead costs for the
35 contractor or subcontractor that actually performs the change
36 order work not exceeding 15 percent of the costs of materials

1 and labor; and

2 D. combined profit and overhead costs for a
3 contractor or subcontractor that administers the change order
4 but does not actually perform the change order work not
5 exceeding five percent of the costs of materials and labor.

6 Subp. 4. Approval of change orders. Approval of change
7 orders is required as follows:

8 A. Proposed changes that substantially alter the type
9 of treatment process, or its efficiency, versatility, or
10 reliability, must be submitted to the commissioner for prior
11 approval.

12 B. Change orders not requiring the commissioner's
13 prior approval under item A must be submitted to the
14 commissioner for review and approval within one month after the
15 date on which the municipality, its engineer, or other
16 authorized agent, and the contractor execute the change order.

17 C. Proposed changes described in item A do not
18 require prior written approval from the commissioner when the
19 work is agreed by the commissioner to be of an emergency nature.

20 7077.0555 PAYMENTS.

21 Subpart 1. Request for payments. The municipality shall
22 make periodic payment requests for eligible costs as costs are
23 incurred on a form provided by the authority and submit a
24 summary of incurred costs prepared on a form provided by the
25 agency. The commissioner shall certify to the authority whether
26 the municipality has met payment conditions under this part.

27 Subp. 2. Payment conditions. Failure of a project to meet
28 any of the following conditions constitutes grounds for the
29 commissioner to request that the authority withhold payments to
30 the municipality:

31 A. The municipality must submit a quarterly summary
32 of actions taken to recover corrective action costs from or to
33 complete needed corrective work by the responsible parties.

34 B. The municipality must support claims of incurred
35 administration, legal, and engineering costs specified under

1 part 7077.0515 with documentation.

2 C. The project must substantially conform to the
3 approved corrective actions report.

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

6 E. The progress of the project must conform with the
7 approved project schedule.

8 Subp. 3. **Retainage.** The commissioner shall withhold
9 certification for payment of the final ten percent of the grant
10 until the municipality has successfully completed all activities
11 in the corrective action report, has affirmatively certified
12 that the project meets the performance standards, and has met
13 the recovery of costs requirement.

14 Subp. 4. **Release of withheld payments.** If an agreement is
15 reached between the commissioner and the municipality, the
16 commissioner shall recommend to the authority that the withheld
17 funds be released according to the provisions of the agreement.
18 Failure of the municipality to reach an agreement with the
19 commissioner within 30 days of receiving written notification
20 that payments are being withheld constitutes grounds for the
21 commissioner to request that the authority commence action for
22 termination of the grant and repayment of the funds.

23 7077.0560 RECOVERY OF GRANT FUNDS.

24 Subpart 1. **Generally.** A municipality that is awarded a
25 corrective action grant shall seek recovery from a person who is
26 responsible for the failure of the facility to perform.

27 Subp. 2. **Recovery before corrective action grant award.**
28 In the event that the municipality recovers an amount of money
29 from the responsible persons before the corrective action grant
30 is awarded, the amount of the award shall be determined by
31 subtracting the amount recovered for grant eligible work from
32 the total eligible costs determined under part 7077.0515.

33 Subp. 3. **Recovery after corrective action grant award.** In
34 the event that the municipality recovers an amount of money from
35 the responsible persons after the corrective action has been

1 awarded, the grant will be amended by subtracting the amount
2 recovered for grant eligible work from the total eligible costs
3 determined under part 7077.0515. If corrective action grant
4 funds have been paid to the municipality in excess of the
5 amended grant amount, the municipality shall repay the excess
6 amount to the state.

7 Subp. 4. **Approval of negotiated settlement.** A
8 municipality must obtain the written approval of the
9 commissioner of any settlement negotiated with the responsible
10 persons before the municipality may enter into the settlement,
11 whether the settlement is before or after litigation has begun
12 and whether or not a corrective action grant has been awarded,
13 if the municipality wants to maintain its eligibility for a
14 corrective action grant. Failure of the municipality to obtain
15 written approval from the commissioner of any settlement
16 constitutes grounds for the commissioner to recommend denial of
17 a corrective action grant or to request that the authority
18 commence action to terminate the grant and seek repayment of the
19 funds from the municipality if a grant has already been awarded.

20 Subp. 5. **Failure to seek recovery.** Failure of a
21 municipality that has been awarded a corrective action grant to
22 seek recovery of corrective action costs from responsible
23 persons constitutes grounds for the commissioner to request that
24 the authority withhold future payments to the municipality and
25 seek repayment of the funds already paid.

26 CAPITAL COST COMPONENT GRANT PROGRAM

27 7077.0600 PURPOSE.

28 The capital cost component grant program provides grants to
29 municipalities for part of the capital cost component of the
30 service fee under a service contract with a private vendor to
31 construct and operate wastewater treatment facilities according
32 to the provisions of Minnesota Statutes, section 116.18,
33 subdivision 3b. The program is jointly administered by the
34 Minnesota Pollution Control Agency and the Minnesota Public
35 Facilities Authority. The program applies to grants made

1 before, on, or after July 1, 1990. Parts 7077.0600 to 7077.0660
2 provide for the agency's responsibilities for the administration
3 of the program.

4 7077.0605 DEFINITIONS.

5 Subpart 1. **Scope.** For the purpose of parts 7077.0600 to
6 7077.0660, the following terms have the meanings given them.

7 Subp. 2. to 4. [See Repealer.]

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

11 Subp. 6. [See Repealer.]

12 Subp. 7. **Project.** "Project" means the work for which a
13 grant or grant amendment is awarded under parts 7077.0600 to
14 7077.0660.

15 7077.0615 GRANT APPLICATIONS.

16 Subpart 1. **Notice of taking applications.** The
17 commissioner shall request that the authority publish notice in
18 the State Register that capital cost component grant
19 applications will be accepted by the authority. The application
20 closing date must be established by the commissioner and must be
21 no less than 90 days after the publication date.

22 Subp. 2. **Application requirements.** The municipality shall
23 apply for a capital cost component grant on an application form
24 provided by the commissioner. The municipality shall submit the
25 following information with the application:

26 A. a copy of the municipality's request for proposals
27 for construction and operation of the wastewater treatment
28 facility;

29 B. an engineering report containing:

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

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

35 (3) the municipality's existing wastewater flows

1 and loadings data on a form provided by the agency; and
2 (4) the municipality's estimated future
3 wastewater flows and loadings data on a form provided by the
4 agency;

5 C. a copy of all proposals received in response to
6 the municipality's request for proposals; and

7 D. a design summary of the wastewater treatment
8 facility with all components listed and sized.

9 Subp. 3. Other information. After the application is
10 received, the applicant shall submit other information requested
11 by the commissioner necessary to clarify the application.

12 Subp. 4. Application closing date. The application must
13 be submitted to the authority or postmarked by the noticed
14 application closing date.

15 Subp. 5. Incomplete applications. Municipalities that
16 submit applications that do not include the information required
17 in subpart 2 or that are not submitted by the application
18 closing date are ineligible for funding. The municipalities may
19 reapply in a later application period.

20 7077.0630 CERTIFICATION OF AWARD.

21 The commissioner shall certify to the authority the list of
22 projects to be awarded grants and the amount of the grant to be
23 awarded based on the criteria in parts 7077.0620 and 7077.0625.

24 7077.0635 PLANS AND SPECIFICATIONS.

25 Subpart 1. In general. A municipality must submit plans
26 and specifications to the commissioner for review and approval
27 according to part 7077.0640, subpart 2, item A.

28 Subp. 2. Contents. A complete set of plans and
29 specifications must include:

30 A. drawings and specifications signed by a
31 professional engineer registered in Minnesota;

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

34 C. a summary of flow conditions for average dry
35 weather, average wet weather, maximum wet weather, peak hourly

1 and instantaneous wet weather on a form provided by the agency;

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

4 E. a plan for interim treatment during construction.

5 7077.0640 GRANT CONDITIONS.

6 Subpart 1. Statutory and regulatory requirements. The
7 grantee shall comply with applicable statutory and regulatory
8 requirements for capital cost component grants.

9 Subp. 2. General conditions. The grantee shall comply
10 with the conditions in items A to E during the course of
11 constructing the wastewater treatment facility.

12 A. Within 365 days after the grant award date, the
13 grantee shall submit to the commissioner for technical review
14 and approval complete plans and specifications for the
15 wastewater treatment facility. The commissioner shall approve
16 or deny approval of the plans and specifications within 90 days
17 after initial submittal. The grantee and the commissioner may
18 agree to one extension of up to an additional 90 days.

19 B. The grantee shall not initiate construction of the
20 project until:

21 (1) the environmental review process in chapter
22 4410 and Minnesota Statutes, chapter 116D, has been completed;

23 (2) the grantee has obtained the required permits
24 for the project;

25 (3) the commissioner has approved the plans and
26 specifications for the project; and

27 (4) a copy of the executed service contract
28 between the grantee and the private vendor has been submitted to
29 the commissioner along with a certification from the grantee
30 that the service contract satisfies all statutory requirements
31 applicable to the contract.

32 C. The project must be constructed in accordance with
33 the approved plans and specifications and any approved change
34 orders.

35 D. A grantee proposing to make changes in the project

1 that alter the type, efficiency, or reliability of the treatment
2 process shall submit to the commissioner information as the
3 commissioner requires to determine the impact of the proposed
4 change on the environment. Changes to the project that alter
5 the type, efficiency, or reliability of the treatment process
6 must not be made without the prior approval of the
7 commissioner. The commissioner shall review a proposed change
8 in the same manner as the original project was reviewed for
9 compliance with applicable pollution control requirements.
10 Change orders for changes not requiring prior approval must be
11 submitted to the commissioner as soon as possible. A change in
12 the type, efficiency, or reliability of the treatment process
13 without prior approval from the commissioner shall constitute
14 grounds for the commissioner to request that the authority
15 terminate the grant of a grantee.

16 E. Before placing the wastewater treatment facility
17 into operation, the grantee shall submit to the commissioner an
18 operations and maintenance manual for the wastewater treatment
19 facility. The commissioner shall review the manual and provide
20 comments to the grantee.

21 7077.0650 GRANT PAYMENT.

22 Subpart 1. Request for payment. A grantee seeking a grant
23 payment shall submit a payment request to the authority on a
24 form provided by the authority.

25 Subp. 2. Schedule of payment. Capital cost component
26 grants shall be paid in accordance with the following schedule:

27 A. 80 percent of the grant upon compliance by the
28 grantee with the following conditions:

29 (1) submission of a certification that the
30 wastewater treatment facility has been completed in accordance
31 with the approved plans and specifications and approved change
32 orders;

33 (2) submission of a certification of compliance
34 with all permit conditions for a period of two consecutive
35 calendar months following project completion;

1 (3) submission of a certification of compliance
2 with all grant conditions in part 7077.0640, subpart 2;

3 (4) submission of two sets of "as-built" plans
4 and specifications to the commissioner on microfiche; and

5 (5) submission of written documentation to the
6 commissioner of actual design and construction costs incurred
7 for the wastewater treatment facility.

8 B. The remaining 20 percent of the grant upon
9 compliance by the grantee with the following conditions:

10 (1) submission of a certification of compliance
11 with all permit conditions for a period of 12 consecutive
12 calendar months following project completion;

13 (2) submission of a certification that the
14 project is capable of accepting hydraulic and organic loadings
15 to the extent designed for in the approved plans and
16 specifications; and

17 (3) submission of a certification that the
18 project will have no overflows or bypasses under design
19 conditions.

20 Subp. 3. **Verification of compliance.** Before a grant
21 payment is made, the commissioner shall verify that the grantee
22 has complied with part 7077.0630 and with the grantee's permit
23 conditions.

24 Subp. 4. **Certification of payment.** Within ten days of
25 receipt of a payment request, the commissioner shall determine
26 whether the grantee qualifies for payment. If the commissioner
27 determines that payment is not appropriate, the commissioner
28 shall advise the grantee of the deficiencies in the request. If
29 the commissioner determines that payment is appropriate, the
30 commissioner shall certify to the authority that payment should
31 be made.

32 7077.0655 **TERMINATION OF GRANT.**

33 Failure of the grantee to comply with part 7077.0640 shall
34 constitute grounds for the commissioner to recommend that the
35 authority terminate the grant of a grantee.

1 INDIVIDUAL ON-SITE WASTEWATER TREATMENT
2 SYSTEMS GRANTS PROGRAM

3 7077.0700 PURPOSE.

4 The individual on-site wastewater treatment systems grants
5 program provides grants to municipalities to assist owners of
6 individual on-site wastewater treatment systems to upgrade or
7 replace their failed systems according to the provisions of
8 Minnesota Statutes, section 116.18, subdivision 3c. The program
9 is jointly administered by the Minnesota Pollution Control
10 Agency and the Minnesota Public Facilities Authority. The
11 program applies to grants awarded before, on, or after July 1,
12 1990. Parts 7077.0700 to 7077.0765 provide for the agency's
13 responsibilities for the administration of the program.

14 7077.0705 DEFINITIONS.

15 Subpart 1. **Scope.** For the purpose of parts 7077.0700 to
16 7077.0765, the following terms have the meanings given them.

17 Subp. 2. **Abatement notice.** "Abatement notice" means an
18 official document issued by the municipality to the owner of an
19 individual on-site wastewater treatment system stating that the
20 owner is in violation of the municipality's ordinance that
21 adopts the requirements of chapter 7080. The abatement notice
22 must include a citation to the ordinance alleged to have been
23 violated.

24 Subp. 3. to 5. [See Repealer.]

25 Subp. 6. **Construction cost.** "Construction cost" means the
26 cost of the materials, labor, overhead, and profit necessary for
27 installation, construction, and repair of an individual on-site
28 wastewater treatment system established by a contract between a
29 system owner and a system installer.

30 Subp. 7. **Designer.** "Designer" means a person who designs
31 individual on-site wastewater treatment systems, and has
32 received agency approval under part 7077.0720.

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

1 Subp. 9. **Failed system.** "Failed system" means a
2 wastewater treatment system that has been issued an abatement
3 notice by the municipality's inspector.

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

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

15 Subp. 12. **Installer.** "Installer" means a person who
16 constructs or repairs individual on-site wastewater treatment
17 systems, and has received agency approval under part 7077.0720.

18 Subp. 12a. **Maintenance plan.** "Maintenance plan" means a
19 plan developed and administered by a municipality that
20 demonstrates how the maintenance requirements of chapter 7080
21 will be implemented and enforced.

22 Subp. 13. **Median household income.** "Median household
23 income" means the income data named "median household income"
24 from the most recent decennial census of the United States.

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

30 Subp. 15. [See Repealer.]

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

34 Subp. 17. **Seasonal residence.** "Seasonal residence" means
35 a dwelling used for less than 182 days of a calendar year by a
36 single family or household. Second homes, vacation residences,

1 and recreation residences are included in this definition.

2 Subp. 18. **Site evaluator.** "Site evaluator" means a person
3 who investigates soils and site characteristics, does soil
4 borings or percolation tests for use in designing individual
5 on-site wastewater treatment systems, and has received agency
6 approval under part 7077.0720.

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

12 7077.0710 ELIGIBILITY.

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

16 A. be authorized by its governing body to assume
17 responsibility for the grant application and related documents
18 for owners of individual on-site wastewater treatment systems
19 who are in its jurisdiction and included in the planning area
20 under part 7077.0715, subpart 2;

21 B. have developed and adopted a wastewater treatment
22 plan under part 7077.0715;

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

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

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

33 A. be a failed system;

34 B. have been constructed before January 1, 1977;

35 C. not be serving a seasonal residence; and

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

3 Subp. 3. Previous funding. Individual systems located in
4 geographic areas that were included in planning areas of
5 projects previously funded with state or federal water pollution
6 control funds are not eligible for funding under this part.

7 7077.0715 WASTEWATER TREATMENT PLAN.

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

13 Subp. 2. Planning area. The planning area is the entire
14 geographic area in the municipality's jurisdiction unless the
15 municipality submits an alternative proposal before
16 application. Alternative proposals must be approved by the
17 commissioner and will be evaluated based on housing density,
18 water quality impact, and public health impact. Separate
19 dwellings that do not form a contiguous area are not considered
20 a planning area.

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

23 A. a planning area survey prepared by an inspector
24 that identifies all systems in the planning area as failed
25 systems or systems in compliance with chapter 7080;

26 B. site evaluations, including soil investigations,
27 soil borings, and percolation tests, for the failed systems
28 identified in item A prepared by a site evaluator or site
29 evaluators and a determination if it is feasible to replace or
30 upgrade the failed systems on site;

31 C. an analysis of the overall wastewater treatment
32 needs in the planning area, including sizing and the location of
33 the proposed systems, prepared by a designer using data from the
34 site evaluations prepared under item B;

35 D. a list of the specific failed individual on-site

1 wastewater treatment systems, including addresses and names of
2 property owners requesting grant funds and copies of the
3 abatement notices;

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

8 F. documentation of approval of the inspector, site
9 evaluator or site evaluators, and designer under part 7077.0720.

10 Subp. 4. [See Repealer.]

11 7077.0720 APPROVAL OF INDIVIDUAL ON-SITE WASTEWATER TREATMENT
12 PERSONNEL.

13 Subpart 1. **General requirement.** For the purposes of parts
14 7077.0700 to 7077.0765, inspectors, site evaluators, designers,
15 and installers who inspect, evaluate sites for, design, and
16 install individual on-site wastewater treatment systems under
17 those parts must be approved by the commissioner under subpart 2
18 or 3.

19 Subp. 2. **First alternate approval criteria.** A person
20 referred to in subpart 1 will be approved by the commissioner if
21 the person is fully certified by the agency through the
22 individual sewage treatment systems certification program
23 administered by the agency in cooperation with the Individual
24 Sewage Treatment Systems Advisory Committee established under
25 part 7080.0100. Approval is automatic upon submittal of
26 certification number.

27 Subp. 3. **Second alternate approval criteria.** A person
28 referred to in subpart 1 may apply for approval under this
29 subpart by submitting an application provided by the
30 commissioner upon request. An applicant will be approved by the
31 commissioner if the applicant meets the requirements of items A
32 and B.

33 A. An applicant must demonstrate knowledge by scoring
34 a minimum of 70 percent correct on an examination based on
35 chapter 7080 and administered by the commissioner.

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

3 (1) An inspector must submit a list of individual
4 on-site wastewater treatment systems inspected by the applicant
5 in the past three years. The inspector must certify that a
6 minimum of 30 systems, or parts of systems, listed conform with
7 the criteria in chapter 7080.

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

14 (3) A designer must submit a list of individual
15 on-site wastewater treatment systems designed by the applicant
16 in the past three years. The designer must certify that a
17 minimum of 20 systems listed were designed according to the
18 criteria in chapter 7080.

19 (4) An installer must submit a list of individual
20 on-site wastewater treatment systems constructed or repaired by
21 the applicant in the past three years. The installer must
22 certify that a minimum of ten systems listed were constructed or
23 repaired according to the criteria in chapter 7080.

24 Subp. 4. Notification of approval. The commissioner will
25 approve or deny an application within 30 days of the receipt of
26 information required under subpart 3. Applicants may reapply at
27 any time.

28 Subp. 5. Purpose of agency approval. Agency approval of
29 inspectors, site evaluators, designers, and installers is for
30 grant funding purposes only. This approval does not make the
31 agency responsible for the technical adequacy of the work of
32 inspectors, site evaluators, designers, and installers nor does
33 it alter legal liability of this personnel otherwise provided by
34 law.

35 7077.0725 APPLICATION.

1 Subpart 1. Notice of taking applications. The
2 commissioner will request the authority to publish in the State
3 Register a notice that applications for individual on-site
4 wastewater treatment grants will be accepted by the authority.
5 The application closing date will be established by the
6 commissioner, and will be no less than 120 days after the
7 publication date.

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

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

18 B. the wastewater treatment plan prepared under part
19 7077.0715;

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

23 D. a copy of the ordinance establishing a maintenance
24 plan under part 7077.0710, item D;

25 E. alternative median household income data under
26 part 7077.0710, item E, for municipalities and planning areas
27 not included in the decennial census;

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

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

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

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

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

4 H. a statement from the municipality that it has an
5 inspector on staff or under contract for services, including
6 documentation of approval under part 7077.0720.

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

11 Subp. 4. **Application closing date.** The application must
12 be postmarked by the noticed application closing date.

13 Subp. 5. **Incomplete applications.** Municipalities that
14 submit applications that do not include the information required
15 in subparts 2 and 3 or that are not submitted by the application
16 closing date are ineligible for funding. The municipalities may
17 reapply in a later application period.

18 7077.0730 ELIGIBLE COSTS.

19 Subpart 1. **Eligible costs.** Only the actual construction
20 costs of upgrading or replacing failed individual on-site
21 wastewater treatment systems that have been identified under
22 part 7077.0715, subpart 3, item D, are eligible.

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

27 Subp. 3. **Number of systems limitation.** The eligibility of
28 costs for a treatment site is limited to either a trench or bed
29 system or a mound system under part 7077.0735, subpart 1.

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

34 A. the municipality has developed and adopted a
35 wastewater treatment plan as described in part 7077.0715 before

1 construction costs are incurred by the owner of the individual
2 system;

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

5 C. the municipality submits a complete and timely
6 application, during the first noticed application period under
7 part 7077.0725, subpart 1, following the adoption of the
8 wastewater treatment plan.

9 7077.0735 AMOUNT OF GRANT AWARD.

10 Subpart 1. Grant amount. The amount of the grant will be
11 50 percent of the actual eligible costs under part 7077.0730 up
12 to a maximum grant of \$2,500 per household for a trench or bed
13 system and \$3,750 per household for a mound system.

14 Subp. 2. Partial awards. A municipality that receives
15 only a part of the grant to which it is entitled, due to the
16 limitation of funding, will be entitled to receive a grant
17 amendment in the next year or years, if individual on-site
18 wastewater treatment systems grant funding is available, until
19 the full amount of the grant is awarded.

20 7077.0740 PRIORITY RANKING.

21 Municipalities that meet the requirements of parts
22 7077.0710 to 7077.0725 will be ranked for funding priority from
23 lowest median household income to highest median household
24 income, with the lowest median household income receiving the
25 highest priority. Median household income is that established
26 for the planning area identified under part 7077.0715, subpart
27 2. Planning areas not included in the decennial census shall
28 submit a median household income figure for the planning area
29 supported by complete income data and a computation methodology.
30 If the data is complete and the computation methodology is
31 equivalent to the decennial census, the median household income
32 will be approved by the commissioner.

33 7077.0755 PAYMENTS.

34 Subpart 1. Request for payments. A municipality must

1 submit payment requests to the authority on a form provided by
2 the authority.

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

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

9 A. invoices documenting incurred construction costs;

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

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

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

16 Subp. 4. **Certification of payment.** Within 30 days of
17 agency receipt of payment request, the commissioner will
18 determine whether payment will be made. If the commissioner
19 determines that payment will not be made, the commissioner will
20 advise the municipality of the deficiencies in the request. If
21 the commissioner determines that payment conditions have been
22 met, the commissioner will certify to the authority that payment
23 should be made.

24 7077.0765 SUBSEQUENT GRANTS.

25 A municipality awarded a grant from the individual on-site
26 wastewater treatment systems grants program is not eligible for
27 additional funding under the program established by the 1972
28 Federal Water Pollution Control Act amendments or the state
29 independent grants program, including the individual on-site
30 wastewater treatment systems grants program, unless the
31 municipality is applying for a project that serves a planning
32 area that was not included, under part 7077.0715, subpart 2, in
33 the awarded grant.

34 PROCEDURAL REQUIREMENTS

35 7077.2000 DISPUTES.

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

6 7077.2005 PROCEDURAL RULES AND APPEALS.

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

11 7077.2010 VARIANCES.

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

17

18 REPEALER. Minnesota Rules, parts 7075.1010, subparts 1, 2,
19 3, and 4; 7075.1060, subparts 3 and 5; 7075.1110, subparts 2, 3,
20 4, and 6; 7075.1410, subparts 3, 4, 5, and 15; 7075.1430,
21 subpart 4, 7075.2510; 7075.2540, subpart 2; 7075.2545, subpart
22 1, are repealed.

23

24 RENUMBER. In the next edition of Minnesota Rules, renumber
25 the parts in column A with the corresponding part numbers in
26 column B.

27	A	B
28	7075.1005	7077.0500
29	7075.1010	7077.0505
30	7075.1020	7077.0510
31	7075.1030	7077.0515
32	7075.1040	7077.0520
33	7075.1050	7077.0535
34	7075.1060	7077.0540
35	7075.1070	7077.0550
36	7075.1080	7077.0555
37	7075.1090	7077.0560
38	7075.1105	7077.0600
39	7075.1110	7077.0605
40	7075.1115	7077.0610
41	7075.1120	7077.0615
42	7075.1125	7077.0620
43	7075.1130	7077.0625

1	7075.1135	7077.0630
2	7075.1140	7077.0640
3	7075.1145	7077.0645
4	7075.1150	7077.0650
5	7075.1155	7077.0655
6	7075.1160	7077.0660
7	7075.1400	7077.0700
8	7075.1410	7077.0705
9	7075.1420	7077.0710
10	7075.1430	7077.0715
11	7075.1440	7077.0720
12	7075.1450	7077.0725
13	7075.1460	7077.0730
14	7075.1470	7077.0735
15	7075.1480	7077.0740
16	7075.1490	7077.0745
17	7075.1500	7077.0750
18	7075.1510	7077.0755
19	7075.1520	7077.0760
20	7075.1530	7077.0765
21	7075.2505	7077.0400
22	7075.2515	7077.0405
23	7075.2520	7077.0410
24	7075.2525	7077.0415
25	7075.2530	7077.0420
26	7075.2535	7077.0425
27	7075.2540	7077.0430
28	7075.2545	7077.0440
29	7075.2550	7077.0445