

1 Pollution Control Agency
2 Adopted Permanent Rules Relating to Financial Assistance
3 Programs for Construction of Municipal Wastewater and Storm
4 Water Treatment Systems

5 7077.0100 PURPOSE.

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

11 A. the financial assistance program, consisting of:

12 (1) the wastewater infrastructure fund, Minnesota
13 Statutes, section 446A.072;

14 (2) the state revolving fund, Minnesota Statutes,
15 section 446A.07;

16 (3) the state independent grants program under
17 Minnesota Statutes, section 116.18, subdivision 3a; and

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

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

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

24 7077.0105 DEFINITIONS.

25 [For text of subps 1 to 8, see M.R.]

26 Subp. 8a. **Best management practices.** "Best management

1 practices" has the meaning given it in Code of Federal
2 Regulations, part 40, section 122.2.

3 [For text of subp 9, see M.R.]

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

9 [For text of subps 10 to 14, see M.R.]

10 Subp. 14a. [See repealer.]

11 [For text of subp 15, see M.R.]

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

15 [For text of subps 17 to 18a, see M.R.]

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

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

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

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

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

14 [For text of subps 22a to 30, see M.R.]

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

20 [For text of subps 32 and 32a, see M.R.]

21 Subp. 33a. **Project priority list.** "Project priority list"
22 means the priority list prepared by the commissioner under parts
23 7077.0115 to 7077.0121.

24 [For text of subps 33b to 41d, see M.R.]

25 Subp. 42. **Total maximum daily load or TMDL.** "Total
26 maximum daily load" or "TMDL" means a total maximum daily load
27 established by the agency and approved by the United States

1 Environmental Protection Agency under section 303(d) of the
2 federal Clean Water Act.

3 [For text of subp 43, see M.R.]

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

7 [For text of subps 44 to 47, see M.R.]

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

13 [For text of subps 49 and 50, see M.R.]

14 7077.0115 PROJECT PRIORITY LIST.

15 Subpart 1. **Requirement.** The commissioner shall develop
16 and maintain a project priority list of projects for
17 municipalities that have a need for a new wastewater treatment
18 system; improvement, rehabilitation, expansion, or replacement
19 of an existing wastewater treatment system; or a storm water
20 treatment system.

21 [For text of subp 2, see M.R.]

22 Subp. 3. **Request for placement on list.** A municipality
23 may submit a written request to the commissioner on forms
24 prescribed by the commissioner for eligibility review under
25 subpart 4, assignment of priority points, and placement of a
26 project on the project priority list. A municipality that does
27 not submit information necessary for eligibility review under

1 subpart 4 shall be placed on the list with total points equal to
2 one until the information is provided or until removed under
3 subpart 6.

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

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

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

18 C. Storm water treatment system projects shall be
19 added to the project priority list if the commissioner finds
20 that:

21 [For text of subitems (1) to (3), see M.R.]

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

27 Subp. 5. **Recalculation of total points.** Total points

1 shall be recalculated when new information and a request for
2 recalculation are submitted to the agency by the applicant.

3 [For text of subp 6, see M.R.]

4 7077.0116 PRIORITY POINTS FOR TYPES OF PROJECTS.

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

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

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

23 Subp. 4. Storm water projects. Storm water projects shall
24 be assigned priority points under part 7077.0119.

25 Subp. 5. Assignment of points by commissioner. The
26 commissioner shall determine the number of points to be assigned
27 under parts 7077.0116 to 7077.0119 based on the information

1 provided by the municipality proposing the project.

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

6 7077.0117 POINTS FOR PROJECTS WITH EXISTING NPDES OR SDS PERMIT.

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

16 A. For treatment facilities, actual flow-capacity
17 must measured flows and loadings over the last 12 months shall
18 be measured-by compared to the permitted average wet weather
19 flow over-the-last-12-months or by if not available, to the
20 permitted average annual discharge flow and design loadings.
21 "Average annual discharge flow" means daily average flow
22 measured over 365 consecutive days.

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

1 design peak instantaneous wet weather flow, shall be submitted
2 which show that the facilities are operating at or above 85
3 percent of their hydraulic design capacity.

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

9 Subp. 3. **Excessive infiltration or inflow.** Fifteen points
10 shall be assigned if the existing facility has excessive
11 infiltration or inflow and the project proposal includes
12 measures to correct the excessive infiltration or inflow ~~for~~
13 ~~that-facility.~~

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

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

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

27 Subp. 5. **Effluent limit more stringent than secondary**

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

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

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

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

23 Subp. 7. Projects with effluent discharge violations.
24 Five points shall be assigned if the existing wastewater
25 treatment facility is currently in violation of permit effluent
26 limits that exceed the criteria for noncompliance reporting in
27 the NPDES program under Code of Federal Regulations, title 40,

1 section 123.45, appendix A, and the project is designed to
2 remedy the violation.

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

10 Subp. 9. Discharges to impaired or outstanding resource
11 value waters.

12 A. Five points shall be assigned if the existing
13 facility discharges into an outstanding resource value water, or
14 into ~~any water that is identified as~~ an impaired water ~~in the~~
15 ~~most recent list submitted~~ as identified by the agency ~~to and~~
16 approved by the United States Environmental Protection Agency
17 under section 303(d) of the Clean Water Act, or into both types
18 of waters.

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

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

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

27 Subp. 10. Proximity to potable water intake. Five points

1 shall be assigned if the existing facility discharges into
2 surface water and there is an intake for potable water less than
3 25 miles downstream from the point of discharge.

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

10 Subp. 12. **New standards more stringent.** Ten points shall
11 be assigned if the project improves the operation of an existing
12 wastewater treatment facility ~~must-be-improved-because-of~~ to
13 address one or more of the following circumstances:

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

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

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

23 Subp. 13. **Receiving water classification.** Up to seven
24 points shall be assigned based on the classification of the
25 receiving water as provided in this subpart if the existing
26 facility discharges into surface water. If the receiving water
27 has multiple classifications, only the classification with the

1 highest point value under this subpart shall be used.

2	Receiving Water Classification	Points
3		
4	2A	7
5	1, 2Bd	5
6	2B, 2C, 2D	3
7	7	1

8
9 Subp. 14. Effluent impact on receiving water.

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

17 B. The dilution ratio for a facility is calculated by
 18 dividing the average low flow of effluent from the facility by
 19 the lowest daily average flow of the receiving water measured
 20 for seven consecutive days with a once in ten year recurrence
 21 interval (7Q10). The average low flow from the facility shall
 22 be calculated by averaging the influent flow reported on the
 23 discharge monitoring reports for the three consecutive months
 24 with the lowest average influent flow within the most recent
 25 three climatic years. A climatic year is the period from April
 26 1 of a year until March 31 of the following year.

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

31 Subp. 15. Project implements corrective measures. Five

1 points shall be assigned to a project if it implements actions
2 that contribute to the correction of a water quality problem
3 identified in one or more of the following studies or an
4 equivalent study:

5 A. a clean water partnership phase I diagnostic study
6 under part 7076.0240, where the corrective actions are set forth
7 in an implementation plan approved under part 7076.0260;

8 B. an impaired water assessment pursuant to section
9 303(d) of the federal Clean Water Act; or

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

13 Subp. 16. **Project helps meet total maximum daily load for**
14 **receiving water. ~~Thirty~~ Twenty points shall be assigned to the**
15 **project if the project contributes to the achievement of a**
16 **TMDL. To be considered as contributing to the achievement of a**
17 **TMDL, the project must:**

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

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

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

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

- 1 (1) outstanding resource value waters;
- 2 (2) ~~water-that-is-identified-as~~ an impaired water
- 3 ~~in-the-most-recent-list-submitted~~ as identified by the agency to
- 4 and approved by the United States Environmental Protection
- 5 Agency under section 303(d) of the federal Clean Water Act; or
- 6 (3) a lake as defined in part 7077.0105, subpart
- 7 19a; or

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

- 11 (1) waters defined as Class 2A waters under part
- 12 7050.0222, subpart 2; or
- 13 (2) a wetland as defined in part 7050.0130, item
- 14 F.

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

20 7077.0118 PRIORITY POINTS FOR PROJECTS IN UNSEWERED AREAS.

21 Subpart 1. Discharges posing threat to public health or
 22 safety. Points shall be assigned to a project by multiplying 45
 23 times the ratio of the number of existing structures with
 24 individual sewage treatment systems or other systems that
 25 collect and discharge wastewater in the proposed service area
 26 that have the potential to immediately and adversely affect or
 27 threaten public health or safety, including any ground surface

1 or surface water discharge or sewage backup into a dwelling or
2 other establishment resulting from the system, to the total
3 number of existing structures with wastewater flows to
4 individual sewage treatment systems or other systems in the
5 proposed project service area.

6 **Subp. 2. Discharges that fail to protect groundwater.**

7 Points shall be assigned to a project by multiplying 15 times
8 the ratio of the number of existing structures in the proposed
9 service area not counted in subpart 1 with individual sewage
10 treatment systems or similar systems that have one or more
11 sewage tanks which obviously leak below the designated operating
12 depth or have less than the required vertical separation as
13 described in part 7080.0060, subpart 3, item B, to the total
14 number of existing structures with individual sewage treatment
15 systems in the proposed project service area.

16 **Subp. 3. Noncompliance with setback requirements.** Points

17 shall be assigned to a project by multiplying five times the
18 ratio of the number of existing structures with individual
19 sewage treatment systems in the proposed service area that do
20 not conform to a setback requirement set forth or cited by
21 reference in part 7080.0170, subpart 1, item F, and that were
22 not counted under subpart 1 or 2, to the total number of
23 existing structures with individual sewage treatment systems in
24 the proposed project service area.

25 **Subp. 4. Proximity of individual sewage treatment systems**

26 **to impaired or outstanding resource value water.** Five points
27 shall be assigned to a project if one or more existing

1 individual sewage treatment systems in the proposed project
 2 service area are located within 500 feet of an outstanding
 3 resource value water, or ~~any water that is identified as~~ an
 4 impaired water ~~in the most recent list submitted~~ as identified
 5 by the agency ~~to~~ and approved by the United States Environmental
 6 Protection Agency under section 303(d) of the federal Clean
 7 Water Act, or both.

8 Subp. 5. Proximity of failing individual sewage treatment
 9 systems to outstanding resource value or impaired water. Five
 10 points shall be assigned to a project where one or more of the
 11 following systems are located within 500 feet of an outstanding
 12 resource value water, or ~~any water that is identified as~~ an
 13 impaired water ~~in the most recent list submitted~~ as identified
 14 by the agency ~~to~~ and approved by the United States Environmental
 15 Protection Agency under section 303(d) of the federal Clean
 16 Water Act:

17 A. individual sewage treatment systems or similar
 18 systems that have one or more tanks which obviously leak below
 19 the designated operating depth or have less than the required
 20 vertical separation as described in part 7080.0060, subpart 3;
 21 or

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

1 Subp. 6. Density of individual sewage treatment system
2 discharges.

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

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

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

15 Density	16 Points
17 less than 0.25	0
18 0.25 to 0.50	10
19 greater than 0.50 to 1.0	20
20 greater than 1.0	30

21
22 Subp. 7. Land discharge. Twenty points shall be assigned
23 if the project proposes a new land discharge of treated
24 wastewater effluent and the project includes consumptive use
25 (nitrogen or volume) spray irrigation or on-land disposal
26 systems that are required by permit to denitrify the effluent.

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

1 A. a clean water partnership phase I diagnostic study
2 under part 7076.0240, where the corrective actions are set forth
3 in an implementation plan approved under part 7076.0260;

4 B. an impaired water assessment pursuant to section
5 303(d) of the federal Clean Water Act; or

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

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

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

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

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

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

25 (1) outstanding resource value waters;

26 (2) ~~water-that-is-identified-as~~ an impaired water
27 ~~in-the-most-recent-list-submitted~~ as identified by the agency to

1 and approved by the United States Environmental Protection
 2 Agency under section 303(d) of the federal Clean Water Act; or
 3 (3) a lake as defined in part 7077.0105, subpart
 4 19a; or

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

8 (1) waters defined as Class 2A waters under part
 9 7050.0222, subpart 2; or

10 (2) a wetland as defined in part 7050.0130, item
 11 F.

12 7077.0119 POINTS FOR STORM WATER PROJECTS.

13 Subpart 1. **Discharges to impaired or outstanding resource**
 14 **value waters.** Five points shall be assigned if the storm water
 15 project provides treatment that reduces the quantity or improves
 16 the quality of storm water discharges and if the storm water
 17 project area currently discharges into ~~water-that-is-identified~~
 18 ~~as an impaired water in-the-most-recent-list-submitted as~~
 19 identified by the agency ~~to~~ and approved by the United States
 20 Environmental Protection Agency under section 303(d) of the
 21 federal Clean Water Act, or an outstanding resource value water,
 22 or both. For the purposes of this part, discharge into a
 23 subwatershed that flows into an impaired water is considered a
 24 discharge into that impaired water.

25 Subp. 2. **Receiving water classification.** Up to seven
 26 points shall be assigned based on the classification of the
 27 receiving water as provided in this subpart if the storm water

1 project provides treatment that reduces the quantity or improves
2 the quality of storm water discharges. If the receiving water
3 has multiple classifications, only the classification with the
4 highest point value under this subpart shall be used.

5	Receiving Water Classification	Points
6		
7	2A	7
8	1, 2Bd	5
9	2B, 2C, 2D	3
10	7	1
11		

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

17 A. a clean water partnership phase I diagnostic study
18 under part 7076.0240, where the corrective actions are set forth
19 in an implementation plan approved under part 7076.0260;

20 B. an impaired water assessment pursuant to section
21 303(d) of the federal Clean Water Act; or

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

25 Subp. 4. Project helps meet total maximum daily load for
26 receiving water. ~~Thirty~~ Twenty points shall be assigned to the
27 project if the project contributes to the achievement of a
28 TMDL. To be considered as contributing to the achievement of a
29 TMDL, the project must:

30 A. be designed to reduce the discharge of pollutants
31 as specifically required by an agency-approved TMDL

1 implementation plan; or

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

4 Subp. 5. **New or expanded diversion of storm water; points**
5 **subtracted.** Five priority points shall be subtracted from the
6 project's priority score if the project involves one or more of
7 the following:

8 A. A new or expanded diversion of storm water to one
9 or more of the following types of waters or to a subwatershed
10 that flows into that water:

11 (1) outstanding resource value waters;

12 (2) ~~waters-identified-as~~ impaired waters ~~in-the~~
13 ~~most-recent-list-submitted~~ as identified by the agency ~~to~~ and
14 approved by the United States Environmental Protection Agency
15 under section 303(d) of the federal Clean Water Act;

16 (3) waters defined as Class 2A waters under part
17 7050.0222, subpart 2; or

18 (4) a wetland as defined in part 7050.0130, item
19 F; or

20 B. a lake as defined in part 7077.0105, subpart 19a.

21 7077.0121 RANKING OF PROJECTS WITH EQUAL TOTAL NUMBER OF POINTS.

22 Subpart 1. **Tie breaker based on environmental and human**
23 **health threat.** When two or more projects on the project
24 priority list have been assigned the same total number of
25 priority points under parts 7077.0116 to 7077.0118, the project
26 that has the highest number of points assigned based upon
27 environmental and human health threats shall be ranked higher.

1 For purposes of this part, points assigned under parts
2 7077.0117, subparts 6 to 11; 7077.0118, subparts 1 to 5; and
3 7077.0119, subpart 1, are based upon environmental and human
4 health threats.

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

11 7077.0272 FACILITIES PLAN FOR WASTEWATER TREATMENT SYSTEMS.

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

20 Subp. 1a. **Approval by commissioner.** Facilities plans must
21 be submitted to the commissioner for review and approval.
22 Approval shall be based on the commissioner's determination of
23 the adequacy of the facility plan to address the requirements of
24 this part. If the municipality is proposing to change the
25 selected treatment method or any other major element of a
26 previously approved facilities plan or storm water project plan,
27 the municipality must receive the commissioner's approval of a

1 facilities plan addendum.

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

5 [For text of items A to C, see M.R.]

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

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

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

1 agency rules to make the assessment;

2 [For text of subitems (3) and (4), see M.R.]

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

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

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

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

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

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

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

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

3 (3) estimated annual sewer service charges;

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

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

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

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

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

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

21 B. a summary of the information presented and public
22 comments received at a public hearing, required under subpart 3,
23 and the action taken to address those comments;

24 C. a formal resolution of the municipality's
25 governing body adopting the facilities plan;

26 D. a list of ordinances or intermunicipal agreements
27 necessary for the successful implementation and administration

1 of the project;

2 E. a signed treatment agreement with each significant
3 industrial user;

4 F. a completed environmental information sheet; and

5 G. documentation of notification to other
6 governmental units, summaries of comments received, and county
7 certification as required under Minnesota Statutes, section
8 116.182, subdivision 3a, clause (5).

9 [For text of subps 3 and 5, see M.R.]

10 7077.0277 STORM WATER PROJECT PLAN

11 [For text of subpart 1, see M.R.]

12 Subp. 1a. **Approval by commissioner.** Storm water project
13 plans must be submitted to the commissioner for review and
14 approval. Approval shall be based on the commissioner's
15 determination of the adequacy of the project plan to address the
16 requirements of this part. If the municipality is proposing to
17 change the selected treatment method or any other major element
18 of a previously approved storm water project plan, the
19 municipality must receive the commissioner's approval of a
20 project plan addendum.

21 [For text of subps 2 to 4, see M.R.]

22 7077.0279 PLANS AND SPECIFICATIONS FOR STORM WATER TREATMENT
23 SYSTEMS.

24 Subpart 1. **In general.** A municipality must submit plans
25 and specifications to the commissioner for review and approval
26 according to part 7077.0280, subpart 4, item D. The plans and

1 specifications must be consistent with the scope of the approved
2 storm water project plan under part 7077.0277. The project must
3 be constructed according to the approved plans and
4 specifications and change orders.

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

8 A. plans and specifications signed by a professional
9 engineer registered in Minnesota;

10 B. a summary of design parameters for the storm water
11 treatment units;

12 C. a summary of the storm water treatment system flow
13 conditions for average design flow and maximum design flow on a
14 form prescribed by the commissioner;

15 D. a hydraulic profile of the flow through the storm
16 water treatment system;

17 E. a plan for interim treatment to meet permit
18 construction storm water permit requirements during construction
19 of the storm water treatment systems;

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

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

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

1 specifications:

2 A. a project schedule on a form prescribed by the
3 commissioner;

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

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

13 7077.0280 CERTIFICATION SUBMITTAL REQUIREMENTS.

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

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

24 A. a description of the scope of work and estimated
25 costs that will lead to an approved facilities plan or storm
26 water project plan;

27 B. a schedule for completion of the facilities plan

1 or the storm water project plan on a form prescribed by the
2 commissioner;

3 C. for wastewater and storm water treatment projects,
4 a schedule for completion of plans and specifications; and

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

8 Subp. 3. [See repealer.]

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

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

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

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

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

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

26 C. for individual sewage treatment system projects, a
27 certification that the municipality has enacted and is enforcing

1 an ordinance that:

2 (1) adopts the requirements of chapter 7080;

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

7 (3) establishes a maintenance plan; and

8 D. for storm water treatment systems:

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

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

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

16 Subp. 5. [See repealer.]

17 7077.0281 COMMISSIONER CERTIFICATION TO AUTHORITY.

18 Subpart 1. **Certification of planning and design projects.**

19 Upon review and approval of the documents required by part
20 7077.0280, subpart 2, and a determination that the project meets
21 the applicable requirements of the act, federal regulations,
22 state statutes, and this chapter, the commissioner shall certify
23 the project to the authority.

24 Subp. 2. [See repealer.]

25 [For text of subp 3, see M.R.]

26 Subp. 3a. **Essential project components.** In certifying a
27 wastewater treatment project under this part, the commissioner

1 shall include a statement of essential project components and
2 associated costs, which shall be based upon the essential
3 project component percentage calculated under this subpart.

4 "Essential project components" are those components of a project
5 that are necessary to convey or treat a municipality's existing
6 wastewater flows and loadings. Based on information contained
7 in the approved facilities plan submitted under part 7077.0272,
8 the essential project component percentage shall be calculated
9 by multiplying 100 times the number obtained by dividing the
10 total existing daily carbonaceous biochemical oxygen demand
11 (CBOD) mass loading by the proposed total 20-year growth daily
12 CBOD mass loading.

13 [For text of subp 4, see M.R.]

14 7077.0286 COMPLETION OF CONSTRUCTION AND INITIATION OF
15 OPERATION; WASTEWATER TREATMENT SYSTEMS.

16 Subpart 1. Construction reporting requirements. At least
17 60 days before the scheduled initiation of operation, the
18 municipality shall submit to the commissioner, as appropriate:

19 [For text of item A, see M.R.]

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

24 [For text of subps 2 to 4, see M.R.]

25 7077.0288 PROJECT PERFORMANCE.

26 Subp. 2. Performance certification for wastewater

1 treatment systems. One year after the initiation of operation
2 of a wastewater treatment project, the municipality shall submit
3 to the commissioner the following items, as appropriate for a
4 project:

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

9 [For text of subitems (1) to (3), see M.R.]

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

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

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

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

23 The certification shall include one copy of "as-built" plans and
24 specifications on microfiche.

25 B. A revised operation and maintenance manual or
26 revised maintenance plan based on actual operating experience
27 obtained during the one-year start-up period, or a certificate

1 of completion of a revised operation and maintenance manual on a
2 form prescribed by the commissioner.

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

8 [For text of subps 2a and 3, see M.R.]

9 **REPEALER.** Minnesota Rules, parts 7077.0105, subpart 14a;
10 7077.0111; 7077.0165; 7077.0167; 7077.0169; 7077.0171;
11 7077.0173; 7077.0175; 7077.0176; 7077.0177; 7077.0179;
12 7077.0181; 7077.0185; 7077.0186; 7077.0187; 7077.0189;
13 7077.0191; 7077.0195; 7077.0196; 7077.0197; 7077.0276;
14 7077.0278; 7077.0280, subparts 3 and 5; 7077.0281, subpart 2;
15 7077.0300; 7077.0310; 7077.0315; 7077.0320; 7077.0325; and
16 7077.0330, are repealed.