

CHAPTER 7075
MINNESOTA POLLUTION CONTROL AGENCY
STATE FUND AND FEDERAL GRANTS

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GENERALLY

7075.0100 PURPOSE.

This chapter provides for the administration of grants awarded under the federal construction grant program and the state matching grant program. This chapter also provides for the administration of grants awarded before July 1, 1990, under the state independent grants program and the state financial assistance program for combined sewer overflow abatement.

Statutory Authority: *MS s 115.03 subd 1 cl (c); 116.07; 116.16; 116.162*

History: *8 SR 694; 10 SR 278; 10 SR 1758; 15 SR 288*

7075.0200 DEFINITIONS.

Subpart 1. **Scope.** For the purpose of this chapter, the following terms have the meanings given them.

Subp. 2. **Statutorily defined terms.** The terms “person,” “sewage,” “industrial wastes,” “other wastes,” “treatment works,” “sewer system,” “disposal system,” “waters of the state,” “pollution control fund,” “municipality,” “commissioner,” “agency,” “pollution of water,” “eligible cost,” “wastewater treatment facility,” as well as any other pertinent terms for which definitions are given in Minnesota Statutes, chapters 115 and 116 have the meanings ascribed to them therein.

Subp. 3. **Act.** “Act” means the Federal Water Pollution Control Act, United States Code, title 33, section 1251 et seq.

Subp. 4. **Adequate errors and omissions insurance.** “Adequate errors and omissions insurance” means a policy of insurance which provides the minimum amount of coverage for the corresponding estimated project construction cost as determined from the following table, which is maintained for a minimum of two years after acceptance of the project by the grantee.

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Estimated Project Construction Cost	Minimum Amount of Coverage
less than \$1,000,000	\$ 250,000
\$1,000,000 to \$2,999,999	\$ 500,000
\$3,000,000 to \$9,999,999	\$1,000,000
\$10,000,000 or over	\$2,000,000

If an engineer has more than one project, the policy must provide for the minimum coverage applicable to the highest estimated project construction cost. Requests for variances from the requirements of this part are governed by part 7075.5000.

Subp. 5. Administrator. “Administrator” means the Administrator of the United States Environmental Protection Agency.

Subp. 6. Adverse impact. “Adverse impact” means the violation of any water quality standard or an objectionable growth of weeds, algae, or rough fish or any deleterious effect on the physical, chemical, or biological condition of the receiving water that lessens the present or long-term uses of the receiving water.

Subp. 7. Construction loan. “Construction loan” means a loan for a Step 3 project.

Subp. 8. EPA. “EPA” means the United States Environmental Protection Agency.

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

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

Subp. 11. Inflow. “Inflow” means water other than wastewater that enters a sewer system (including sewer service connections) from sources such as, but not limited to, roof leaders, cellar drains, yard drains, area drains, drains from springs and swampy areas, manhole covers, cross connections between storm sewers and sanitary sewers, catch basins, cooling towers, storm waters, surface runoff, street wash waters, or drainage. Inflow does not include, and is distinguished from, infiltration.

Subp. 12. Need. “Need” means a determination that a new or upgraded disposal system is currently required, or will be required within a five-year period to comply with state water pollution control rules; provided, the situation does not exist primarily due to inadequate operation and maintenance or primarily due to negligence on the part of any person.

Subp. 13. Major contributing industry. A “major contributing industry” means an industrial user of a treatment facility that:

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

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

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

D. has in its waste before pretreatment a toxic pollutant in excess of what may be discharged to waters of the state; or

E. is found by the agency in connection with the issuance of an NPDES/SDS permit to the municipality, either singly or in combination with other contributing industries, to interfere with the treatment plant’s ability to meet effluent limitations,

interfere with digester operation or biological unit process operation, impact the area required for sludge disposal, or increase sizing of the facility by five percent or more.

Subp. 14. **NPDES/SDS permit.** "NPDES/SDS permit" means a National Pollutant Discharge Elimination System and State Disposal System permit issued by the agency that authorizes under certain conditions the discharge of pollutants to waters of the state and subsurface disposal or on-land disposal and the operation of a disposal system.

Subp. 15. **90 percent compliance.** "90 percent compliance" means compliance with an NPDES/SDS permit limitation or condition related to effluent quality at a frequency of at least 90 percent of the time during a one-year period computed on the basis of the time interval appropriate to the limitation or condition. Periods of noncompliance caused by inadequate operation and maintenance or negligence on the part of a person are not included in the percentage computation for the purposes of this definition.

Subp. 16. **Outstanding resource value water.** "Outstanding resource value water" means those waters defined in part 7050.0180, subpart 2.

Subp. 17. **Planning loan.** "Planning loan" means a loan for Step 1 or Step 2 projects.

Subp. 18. **Plans and specifications.** "Plans and specifications" includes documents that contain the requirements under which a bidder submits a bid for performing the work and the contractual requirements and detailed requirements. The documents that comprise the plans and specifications must conform with generally accepted engineering practices, applicable state statutes and rules, and applicable requirements of Code of Federal Regulations, title 40, parts 33 and 35.

Subp. 19. **Primary treatment facilities.** "Primary treatment facilities" means facilities designed to provide a level of treatment lower than that provided by secondary treatment facilities.

Subp. 20. **Secondary treatment facilities.** "Secondary treatment facilities" includes facilities designed to provide effective sedimentation, biochemical oxidation, and disinfection, or the equivalent, consistent with requirements of part 7050.0211, subpart 1. Facilities discharging to limited resource value waters (Class 7 waters) and assigned effluent limitations based on part 7050.0214, subpart 1 or 2, and that do not have a phosphorus or toxic substances effluent limitation are secondary treatment facilities for the purpose of this chapter.

Subp. 21. **Step 1.** "Step 1" means the preparation of all necessary preliminary engineering studies for the project.

Subp. 22. **Step 2.** "Step 2" means the preparation of construction plans and specifications for the project.

Subp. 23. **Step 3.** "Step 3" means the construction of the project.

Subp. 24. **Step 2+3.** "Step 2+3" means the preparation of construction plans and specifications for and construction of the project.

Subp. 25. **Tertiary treatment facilities.** "Tertiary treatment facilities" includes facilities specifically designed to achieve effluent limitations based on part 7050.0211, subpart 1, for phosphorus or toxic substances and facilities designed to provide a level of treatment higher than that provided by secondary treatment facilities.

Subp. 26. **Treatment agreement.** A "treatment agreement" is an agreement between a municipality and a major contributing industry that includes the following:

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

B. the intended period of use of the treatment facility;

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

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D. a requirement that the quantities to be discharged to the treatment system will be in accordance with applicable standards and requirements; and

E. enforceability in a court of law by the municipality.

Subp. 27. **Wastewater.** "Wastewater" means sewage, industrial waste, and other wastes collected for treatment in a disposal system.

Subp. 28. **Other terms and abbreviations.** Other terms and abbreviations used herein which are not specifically defined by law shall be construed in conformance with the context and professional usage.

Statutory Authority: *MS s 115.03 subd 1 para (c); 116.16*

History: *8 SR 694; 10 SR 278; L 1987 c 186 s 15*

7075.0300 [Repealed by amendment, 8 SR 694]

7075.0400 TYPES OF PROGRAMS.

Under this chapter and Minnesota Statutes, section 116.16 et seq., the agency may disburse funds from the pollution control fund for the following:

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

B. grants to reduce or eliminate the local contribution of a municipality meeting the criteria in part 7075.0425;

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

D. loans for the construction of municipal disposal systems; and

E. financial assistance for the abatement of combined sewer overflow.

Statutory Authority: *MS s 115.03 subd 1 cl (c); 116.16; 116.162*

History: *8 SR 694; 10 SR 278; 10 SR 1758*

CONSTRUCTION GRANTS PROGRAM

7075.0401 SUMMARY OF CONSTRUCTION GRANTS PROGRAMS.

The following provisions apply to the municipal construction grant programs:

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

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

C. Except as provided in part 7075.0409, subpart 4, items C and D, construction grants are awarded to municipalities on a priority basis. Municipalities with the highest priorities as determined by a point system are awarded construction grants first.

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

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

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

G. A municipality on the municipal project list must apply for a construction grant before a grant will be awarded.

H. State financial assistance is available for design and construction of combined sewer overflow abatement projects. This assistance is awarded on a pro rata

basis to qualifying municipalities separately from the priority ranking process for other construction grants.

Statutory Authority: *MS s 115.03 subd 1 cl (c); 116.16; 116.162*

History: *8 SR 694; 10 SR 278; 10 SR 1758*

7075.0402 MUNICIPAL NEEDS LIST.

Subpart 1. **Requirement.** The agency shall develop and maintain a municipal needs list of municipalities that have a need for a new or upgraded disposal system.

Subp. 2. **Points and listing order.** A municipality on the municipal needs list shall be awarded points under the criteria established in this chapter. The municipalities shall be listed on the municipal needs list in descending order according to the number of points awarded to each.

Subp. 3. **Petition for inclusion on list.** A municipality may petition the agency for inclusion on the municipal needs list. A municipality petitioning the agency for inclusion on the list shall submit the following information:

A. If the municipality is sewered, the municipality shall submit data regarding concentration of pollutants in existing discharge; volume of discharge; and waters of the state presently or potentially impacted by the discharge.

B. If the municipality is unsewered, the municipality shall submit data regarding type of soil in unsewered area; depth to seasonal high water table; size of all lots in the area; and age and type of existing system.

Subp. 4. **Review of petitions; additions to list.** The agency shall review each petition and add to the municipal needs list each municipality for which a need has been found to exist. If the agency determines that a need does not exist, the municipality shall not be added to the list and the agency shall notify the municipality of the reasons for the determination.

Subp. 5. **Removal from needs list.** Upon approval of a facilities plan, the agency may determine that the municipality does not have a need and remove the municipality and the project from the municipal needs list.

Statutory Authority: *MS s 115.03 subd 1 para (c); 116.16*

History: *8 SR 694; 10 SR 278*

7075.0403 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 more specifically defined in parts 7050.0200 and 7050.0220 and 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

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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.

Statutory Authority: *MS s 115.03 subd 1 para (c); 116.16*

History: *8 SR 694; 10 SR 278*

7075.0404 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 to the base 10 (\log_{10}) of the population determined by the latest 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
1,000	3	15.0
10,000	4	20.0
100,000	5	25.0
1,000,000	6	30.0

Statutory Authority: *MS s 115.03 subd 1; 116.16*

History: *8 SR 694*

7075.0405 PRIORITY POINTS FOR TYPE OF PROJECT.

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

Type of Project	Priority Points
Tertiary treatment facilities:	
A. major tertiary treatment facilities	160
B. dechlorination facilities	120
C. ancillary addition to existing tertiary treatment facilities	80
Secondary treatment facilities:	
D. major secondary treatment facilities	150
E. dechlorination facilities	110
F. ancillary addition to existing secondary treatment facilities	75
Collection systems or collector sewers:	
G. collection system or collector sewer	10
H. improvement of collection system or collector sewer reliability	10
Combined sewer overflow:	
I. control of combined sewer overflow	150

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

A. Major treatment facilities are new facilities or additions to existing facilities which improve effluent quality in order that a municipality may achieve compliance

with its NPDES/SDS permit conditions. Major treatment facilities include major interceptor sewers and sewer system rehabilitation. Land application systems and stabilization ponds that are proposed as an alternative to tertiary and secondary treatment facilities that discharge to waters of the state are considered tertiary treatment and secondary treatment for purposes of project priority. Whether a land application system or stabilization pond is a tertiary or secondary treatment system is determined as based on the effluent limitations applicable to discharges to the receiving water. Subsurface disposal systems, including septic tanks, designed to treat an average daily flow of not more than 1,200 gallons and the drainfield portion and one central septic tank to treat an average daily flow in excess of 1,200 gallons are considered secondary treatment for purposes of project priority.

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

- (1) transports the wastewater directly to a wastewater treatment facility;
- (2) transports the wastewater directly to another major interceptor sewer;

or

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

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

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

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

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

F. A relief capacity sewer is a new sewer designed to handle the normal flow of wastewater and to eliminate bypasses caused by insufficient hydraulic capacity in existing sewers by transporting infiltration and inflow to adequately sized sewers or to a wastewater treatment plant. A relief capacity sewer must be designed to provide future capacity for a minimum of 40 years.

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

H. Dechlorination facilities are facilities that remove chlorine from the effluent. When a municipality receives a grant to construct facilities receiving the points

assigned in subpart 1, item A or D, the facilities described in this item shall be funded concurrently.

I. An ancillary addition to existing tertiary or secondary treatment facilities is an addition that is not a major addition and is not dechlorination facilities. Examples are administrative support facilities or sludge handling facilities to enable a municipality to comply with state disposal system permit conditions controlling sludge application to land or sludge disposal. When a municipality receives a grant to construct facilities receiving the points assigned in subpart 1, item A or D, the facilities described in this item shall be funded concurrently.

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

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

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

A relief capacity sewer that qualifies as a major interceptor sewer is considered major treatment facilities and the municipality proposing the project shall be awarded the priority points under part 7075.0405, subpart 1, item A or D for the entire cost of the project.

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

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

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

The component in subitem (2) is considered major treatment facilities and awarded the priority points under part 7075.0405, subpart 1, item A or D and the component in subitem (1) is considered a collector and awarded the priority points under part 7075.0405, subpart 1, item G.

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

C. A municipality proposing to undertake a sewer system rehabilitation project or to construct a relief capacity sewer that does not meet the criteria specified in items A and B must be listed as a separate project on the municipal needs list and awarded the priority points credited to a collection system or collector sewer under part 7075.0405, subpart 1, item G or H.

D. A project for the control of combined sewer overflow is not eligible for priority points under part 7075.0405, subpart 1, item I unless the project is necessary to meet requirements of the municipality's NPDES/SDS permit and the act. In addition, after October 1, 1984, combined sewer overflow projects are eligible for funding and for priority points under part 7075.0405, subpart 1, item I only if the governor, by July 1 prior to the federal fiscal year in which funding is sought, has set aside a portion of the state's allotment or appropriation for correction of combined sewer overflows. This set

aside must not exceed 20 percent of the state's allotment for each fiscal year. In no event after October 1, 1984, may funding for combined sewer overflow projects exceed the amount set aside by the governor for these projects.

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

Statutory Authority: *MS s 115.03 subd 1 para (c); 116.16*

History: *8 SR 694; 10 SR 278*

7075.0406 EXTRA POINTS.

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

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

- (1) information on geologic and soil conditions including soil types, permeabilities, and presence or absence of confining units;
- (2) groundwater flow patterns in the area of the facility or proposed facility;
- (3) an assessment of the extent and magnitude of the contaminant plume;
- (4) an identification of water users and assessment of the amount of water appropriations in the area of the facility or proposed facility;
- (5) flow rates and flow patterns of surface waters;
- (6) information on well construction for wells in the area of the facility or proposed facility, particularly wells that have been or will be impacted;
- (7) a description of the facility's construction, operation, and performance if there is an existing facility, with an explanation of why the facility is creating a public health hazard;
- (8) an identification and assessment of the suspected route of human exposure and the population exposed; and
- (9) a description of how the proposed improvements will mitigate or eliminate the public health hazard.

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

- (1) A municipality that presently has a central sanitary sewer system serving 50 percent or more of the population but provides no treatment prior to discharge, or a municipality which collects an average daily flow exceeding one million gallons through a system without combined sewers and which has bypassed sewage more than 40 percent of the time over a period of at least two years while its plant is operating at full capacity, shall be awarded 40 extra points.
- (2) A municipality with no central sanitary sewer system where more than 50 percent of the existing septic systems discharge raw or partially treated sewage directly to the ground surface shall be awarded 30 extra points.
- (3) A municipality that presently has a central sanitary sewer system serving 50 percent or more of the population and whose present facilities are designed for only primary treatment shall be awarded 20 extra points.
- (4) A municipality that discharges untreated sewage as a result of combined sewer overflows shall be awarded 20 extra points.

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C. A municipality that proposes a project that is an integral part of a watershed pollution abatement plan shall be awarded 15 extra points. A watershed pollution abatement plan shall include the following:

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

(2) an inventory and in depth description of the watershed's hydrologic system, including climatic conditions (precipitation), lakes, wetlands, streams, ground-water, drainage, and conveyance systems;

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

(4) objectives and policies, including management plans for water quality and natural resource protection;

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

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

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

A municipality is not entitled to the 15 extra points under this provision unless the agency received the plan for review by April 15, and it is in approvable condition by July 1, prior to the beginning of the fiscal year for which funding is sought.

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

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

F. An applicant who includes planned participation in a sanitary district or other multimunicipal disposal system as part of the project shall be awarded ten extra points.

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

H. A municipality which does not qualify for the points awarded in item G and which is achieving less than 90 percent compliance with its NPDES/SDS permit conditions shall be awarded 20 extra points.

Statutory Authority: *MS s 115.03 subd 1 para (c); 116.16*

History: *8 SR 694; 10 SR 278*

7075.0407 TOTAL POINTS.

The total points to be awarded a municipality for placement on the municipal needs list is the sum of the priority points awarded under one of the provisions of part 7075.0600, the priority points awarded under part 7075.0404, the priority points awarded under one of the provisions of part 7075.0405, and extra points awarded under one or more of the provisions of part 7075.0406.

Statutory Authority: *MS s 115.03 subd 1; 116.16*

History: *8 SR 694*

7075.0408 RESOLUTION OF EQUAL POINT RATINGS.

If in the determination of the order of priority on the municipal needs list, two or more municipalities have the same total number of points, the municipality with the highest priority points under part 7075.0403 for water use is ranked higher. If two or more municipalities have the same total number of points and the same priority points

under part 7075.0403 for water use, the municipalities are ranked based on population under part 7075.0404.

Statutory Authority: *MS s 115.03 subd 1; 116.16*

History: 8 SR 694

7075.0409 MUNICIPAL PROJECT LIST.

Subpart 1. **Adoption of municipal project list.** The agency shall adopt a municipal project list each fiscal year which shall list in order of priority projects for which federal grant funds will be requested from current allotments and for which independent state grants will be awarded from current appropriations. The municipal project list shall also contain those projects for which state financial assistance will be available for combined sewer overflow abatement projects. The municipal project list shall also list any nonproject uses of the state's allotment of federal grant funds and of the appropriation of state grant funds, including but not limited to, training grants and costs of administration.

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

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

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

(1) a facilities plan in conformance with part 7075.0200, subpart 9; and

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

C. If the grant sought is a Step 2, 2+3, or 3 grant, the municipality shall, by June 1 prior to the beginning of the state fiscal year for which the project list is prepared, make all necessary corrections to the documents listed in item B to make them approvable. If the grant sought is a Step 3 grant, the municipality shall also submit a council resolution by June 1 agreeing to submit the documents listed below by the following September 1:

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

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

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

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

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

The system for raising funds to cover the municipality's costs of construction and to retire the municipality's debt costs need not be proportionally assessed against each user class, but the manner in which the charge will be distributed must be described.

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

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

D. A municipality seeking a Step 3 grant shall submit the documents listed in item C by September 1 of the state fiscal year for which the municipal project list is prepared. If the municipality fails to submit the required items by this deadline, the agency shall remove the municipality from the municipal project list.

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

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

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

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

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

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

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

D. the municipalities' preference for funding sources; and

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

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

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

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

C. The agency shall then list on the municipal project list in priority order those projects on the municipal needs list with priority rankings lower than those selected under items A and B, but which have been identified by the Public Facilities Authority as being substantial economic development projects, and for which a portion of the appropriation for the fiscal year has been set aside for such projects.

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

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

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

Statutory Authority: *MS s 115.03 subd 1 cl (c); 116.16; 116.162*

History: *8 SR 694; 10 SR 278; 10 SR 1758; L 1987 c 186 s 15, c 312 art 1; 13 SR 2329*

7075.0410 RESERVE PROJECT LIST.

A reserve project list shall be developed by the agency concurrent with the adoption of the municipal project list.

The reserve project list shall contain a list of municipalities whose projects are eligible for funding from funds made available when a municipality's application for a grant is rejected pursuant to part 7075.0415.

Municipalities shall be listed on the reserve project list in the same order of priority as municipalities were listed on the municipal project list.

Statutory Authority: *MS s 115.03 subd 1 para (c); 116.16*

History: *8 SR 694; 10 SR 278*

7075.0411 PROJECT ELIGIBILITY.

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

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

Subp. 3. **Initiation of construction.** A municipality may retain eligibility of construction costs incurred prior to the award of an independent state grant only if:

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

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

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

Subp. 4. **Cost-effectiveness.** A project is not eligible for a grant unless the agency determines that the project is an environmentally acceptable cost-effective means of

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handling the municipality's wastewater. The agency shall not award a grant to pay for those portions of a project that are not environmentally acceptable and cost-effective.

Subp. 5. Eligible costs. The following provisions govern eligible costs:

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

B. In addition to other eligible costs established by state law for combined sewer overflow abatement projects, storm water conveyance facilities that are part of the most cost effective alternative for combined sewer overflow abatement shall be eligible for state financial assistance. Such facilities shall include those structures, pipes, and appurtenances from the point of entry at the catch basin to the outlet structure which are necessary to convey up to the five-year storm.

Statutory Authority: *MS s 115.03 subd 1 cl (c); 116.16; 116.162*

History: *8 SR 694; 10 SR 278; 10 SR 1758; 13 SR 2329*

7075.0412 ADJUSTMENTS IN THE MUNICIPAL PROJECT LIST.

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

Statutory Authority: *MS s 115.03 subd 1; 116.16*

History: *8 SR 694; L 1987 c 186 s 15*

7075.0413 PUBLIC PARTICIPATION.

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

Subp. 2. Informational meetings. The agency shall conduct public informational meetings about the proposed lists at locations deemed appropriate by the agency. The agency shall give ten days notice of meetings to all affected municipalities. A person shall be permitted to present oral and written comments about the proposed lists at the meetings.

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

Subp. 4. Oral and written statements. Interested persons may present oral statements to the board at the board meeting. The chairperson may place reasonable restrictions upon the time and manner in which oral comments are submitted. Written statements may be served on the commissioner any time up to five days before the meeting.

Statutory Authority: *MS s 115.03 subd 1 para (c); 116.16*

History: *8 SR 694; 10 SR 278; L 1987 c 186 s 15*

7075.0414 GRANT APPLICATIONS.

Subpart 1. Complete application required. No municipality may be eligible for a construction grant unless a completed grant application has been submitted to the agency.

Subp. 2. Timing and form of application. The following provisions govern the timing and form of grant applications:

A. A municipality on the final municipal project list for other than a combined sewer overflow project shall submit a completed construction grant application to the agency within 90 days after the date on which the agency adopts that fiscal year's municipal project list.

B. A municipality on the final municipal project list for a combined sewer overflow abatement project shall submit a completed construction grant application, or a completed application for state financial assistance, whichever is being applied for, by December 1 following agency adoption of that fiscal year's municipal project list, unless a different date is provided in the municipality's NPDES/SDS permit, in which case the deadline in the permit shall take precedence.

C. The application for federal grant funds shall be on EPA's form 5700-32, as provided by the agency.

D. The application for state grant funds shall be on the form as provided by the agency.

E. The application for state financial assistance for combined sewer overflow abatement projects shall be on the form as provided by the agency.

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

Subp. 4. Additional information for Step 1 grant. A municipality that applies for a Step 1 grant shall, in addition to submitting the completed application form, submit the following information for agency review and approval:

A. A resolution of the governing body of the municipality that authorizes the filing of the application and that designates the municipal official authorized to sign the application, grant offer, and other related grant documents.

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

C. A schedule for completion of the facilities plan.

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

E. If more than one municipality is involved in the grant application, the resolutions required in items A; G, subitems (1) to (3); and H must be submitted for each municipality involved in the project. In addition, the municipalities shall submit an agreement indicating their intent to participate in joint treatment, outlining each municipality's responsibilities during planning and setting forth the cost-sharing methodology.

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

G. Unsewered municipalities shall also submit the following:

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

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

(3) a resolution by the governing body of the municipality resolving that the sewage collection system will be constructed concurrently with the sewage treatment works if the collection system is not part of the project to be funded and the municipality does not already have a collection system; and

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

H. A resolution of the governing body of the municipality stating that the municipality will maintain records of costs incurred for facilities planning.

I. Other documents that are required by EPA regulation or other requirements of the act or other state or federal statutes.

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

A. A resolution of the governing body of the municipality that authorizes the filing of the application and that designates the municipal official authorized to sign the application, grant offer, and other related grant documents.

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

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

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

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

F. If the municipality will be receiving state funds, a council resolution stating that the municipality will maintain records of costs incurred for Step 2 work.

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

H. A certification from the municipality that the municipality shall prohibit unpolluted water connections to the municipality's sanitary sewer system in the future, and inspect new connections to the sanitary sewer system throughout the municipality's jurisdiction to ensure that the connections conform to the Minnesota Plumbing Code, found in the rules of the Department of Health, chapter 4715.

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

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

K. Schedule for completion of all Step 2 work.

L. Other documents that are required by EPA regulation or other requirements of the act or other state or federal statutes.

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

A. A resolution of the governing body of the municipality that authorizes the filing of the application and that designates the municipal official authorized to sign the application, grant offer, and other related grant documents.

B. A preliminary plan of operation of the treatment works.

C. A proposal for start-up/performance certification of the treatment works, plus the costs for developing an operation and maintenance manual, a final plan of operation, and for start-up/performance certification of the treatment works.

D. A wage rate determination information sheet, as provided by the agency.

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

The treatment works described in this grant application have 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 these treatment works are capable of consistently producing the required effluent quality, provided that the facility is operated in conformance with the approved operation and maintenance manual and that the volume and characteristics of raw wastewater are within the limits of "Design Data" stated on page . . . of the plans as follows:

F. A proposed engineering contract that provides for the consulting engineer or the engineer's agent to be present on-site during the hours of construction for purposes of inspection, although the inspector does not have to be a resident of the municipality, and to submit written reports to the agency on request describing the type of construction inspected and the time involved in inspection after construction commences.

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

H. A treatment agreement with each major contributing industry that will discharge wastewater to the new or upgraded system.

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

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

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

L. A comprehensive legal opinion identifying that the grantee has sufficient legal vested interest in all sites, easements, and/or rights-of-way to ensure immediate construction and undisturbed utilization for the estimated life of the facilities.

M. Other documents that are required by EPA regulation or other requirements of the act or other state or federal statutes.

N. For municipalities applying for Step 3 federal grants for combined sewer overflow abatement projects, the following information shall also be submitted:

(1) the scope of work outlined in the list and schedule submitted the previous June 1, or in accordance with the NPDES/SDS permit;

(2) such additional scope of work that the municipality could proceed with if any additional funds become available; and

(3) the items listed in part 7075.0409, subpart 2, item C. The plans and specifications shall be for the scope of work described in subitems (1) and (2).

Subp. 6a. Additional information for state financial assistance for combined sewer overflow abatement. A municipality that applies for state financial assistance for a combined sewer overflow abatement project shall submit the following information for agency review and approval:

A. the scope of work contained in the list and schedule submitted the previous June 1, or in accordance with the NPDES/SDS permit, plus such additional scope of work as may be necessary to utilize any additional funds that may become available;

B. that information required for a Step 3 grant under subpart 6, items A, F, G, I, and L; and

C. plans and specifications for the scope of work described in item A.

Subp. 7. Requirements prior to authorization to seek construction bids. A municipality that has received a Step 2+3 grant shall submit, and receive agency approval of, the same information required of a Step 3 grant applicant in subpart 6,

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items B to M and part 7075.0409, subpart 2, items C and D, before the municipality may receive authorization to seek bids for construction of the project.

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

Statutory Authority: *MS s 115.03 subd 1 para (c); 116.16; 116.162*

History: *8 SR 694; 10 SR 278; 10 SR 1758*

7075.0415 REJECTION OF GRANT APPLICATIONS.

Subpart 1. **Grounds.** A municipality's grant application for a project on the municipal project list may be rejected by the agency for the following reasons:

A. failure to submit the necessary documentation required by this rule within the time allowed, unless the municipality was delayed for reasons beyond its control;

B. failure to develop the necessary user charge system and other fundraising systems or to develop the necessary ordinances or to enter into the necessary contracts and agreements or to do any of the other acts specified in the grant applications requirements to establish that the municipality has the capability to construct, operate, and maintain the disposal system in a manner that will comply with all applicable water pollution control requirements; or

C. a determination by the agency that the municipality cannot implement the project in a timely fashion to avoid the loss of federal grant funds to the state for that fiscal year.

Subp. 2. **Effect of rejection.** Whenever a grant application is rejected, the agency shall remove the municipality from the municipal project list.

Statutory Authority: *MS s 115.03 subd 1; 116.16*

History: *8 SR 694*

7075.0416 APPROVAL OF GRANT APPLICATIONS.

The agency shall approve grant applications that are not rejected for one or more of the reasons specified in part 7075.0415.

The commissioner shall certify to the EPA each approved federal grant application.

Statutory Authority: *MS s 115.03 subd 1 para (c); 116.16*

History: *8 SR 694; 10 SR 278; L 1987 c 186 s 15*

7075.0417 TENDER OF FEDERAL GRANTS AND STATE MATCHING GRANTS.

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

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

Statutory Authority: *MS s 115.03 subd 1 para (c); 116.16*

History: *8 SR 694; 10 SR 278*

7075.0418 [Repealed, 10 SR 1758]

7075.0419 ADVANCES OF ALLOWANCE.

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

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Subp. 2. **Advance of allowance.** A municipality on the municipal needs list with a population in the service area of less than 25,000 people is eligible to apply for an advance of allowance. The application shall be submitted within 60 days after the date on which the agency informs the city in writing of its intent to offer an advance.

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

A. for a Step 1 advance, the information required in part 7075.0414, subpart 4, items A to G and I;

B. for a Step 2 advance, the information required in part 7075.0414, subpart 5, items A to E and G to L.

Subp. 3a. **Submittal and approval of facilities plan.** In order to receive a Step 2 advance, a municipality shall submit the documents listed in part 7075.0409, subpart 2, item B. The facilities plan must be approved before the advance will be awarded.

Subp. 4. **Amount of advance.** The amount to be allowed as an advance of allowance shall be that amount determined by EPA.

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

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

Subp. 7. **Payments.** The agency shall pay an advance of allowance in accordance with the procedures and requirements in part 7075.0431. The agency may seek to recover funds tendered or disbursed if the municipality does not make satisfactory progress in submitting an approvable facilities plan or plans and specifications within the time frame specified in the allowance award agreement. If satisfactory progress is not made in submitting approvable plans and specifications, the agency reserves the right not to list the project on the next municipal project list.

Subp. 8. [Repealed by amendment, 10 SR 278]

Statutory Authority: *MS s 115.03 subd 1 para (c); 116.16; 116.162*

History: *8 SR 694; 10 SR 278; 10 SR 1758*

7075.0420 GRANT AMENDMENTS.

Subpart 1. **Grant increases.** The agency shall reserve a reasonable amount of its allotment to pay for grant increases that become necessary during the fiscal year.

Subp. 1a. **Limitation of Step 1 and 2 grant increases.** For grants awarded before May 12, 1982, the agency shall not, after December 31, 1985, award grant increases for Step 1, Step 2, or the Step 2 portion of Step 2+3 grants.

Subp. 2. **Approval of Step 3 and the Step 3 portion of Step 2+3 grant increases.** The agency may approve a Step 3 and the Step 3 portion of a Step 2+3 grant increase when a municipality has solicited contracts that exceed the cost estimated in the application. The agency shall approve the grant amendment if funds are available and the costs are eligible and reasonable. After the as-bid costs have been determined, only cost overruns caused by unanticipated site conditions shall be eligible for funding through grant amendments, and the grant amendment shall be limited to two percent of the as-bid costs.

Subp. 3. **Information required.** A municipality that seeks a grant amendment shall submit the following information to the agency:

A. a written request for the amendment signed by an official of the municipality;

B. a complete cost breakdown and scope of work;

C. a cost breakdown of engineering fees on EPA form 5700-41, as provided by the agency;

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D. an unexecuted amended engineering contract indicating changes in the cost, the scope of work, and the budget period that must be made in the contract; and

E. a budget period extension request signed by an official of the municipality if the budget period must be extended.

Statutory Authority: *MS s 115.03 subd 1 para (c); 116.16*

History: *8 SR 694; 10 SR 278*

7075.0421 CHANGE ORDERS.

Any proposed changes in the contract which result in cost increases greater than that of the base contract plus contingencies as stated in the project summary or other proposed changes regardless of cost which substantially alter the type of treatment process, or its efficiency, versatility, or reliability, must be submitted to the commissioner for prior approval, except where the work is agreed by the commissioner to be of an emergency nature. Change orders not requiring prior approval of the commissioner must be submitted within one month after the date on which the change is ordered by the applicant, its engineer, or other authorized agent for review and approval.

Statutory Authority: *MS s 115.03 subd 1; 116.16*

History: *8 SR 694; L 1987 c 186 s 15*

7075.0422 [Repealed, 10 SR 278]

7075.0423 RETAINED PAYMENTS.

The agency may withhold Step 3 grant payments and may request the EPA to withhold grant payments if the commissioner determines that a project does not substantially conform to approved plans and specifications, or there has been a major breach of a condition in the grant agreement, or the municipality has failed to comply with the applicable requirements in parts 7075.0429 to 7075.0432. If funds are withheld pursuant to this part, and the condition causing the withholding has been corrected, then all retained funds shall be released to the municipality, unless otherwise agreed to by the commissioner and the municipality.

Statutory Authority: *MS s 115.03 subd 1 para (c); 116.16*

History: *8 SR 694; 10 SR 278; L 1987 c 186 s 15*

7075.0424 RECOVERY OF FUNDS.

In addition to any other remedies, the agency may seek to recover funds tendered or disbursed for a project that is improperly designed, improperly constructed, or improperly operated and maintained.

Statutory Authority: *MS s 115.03 subd 1; 116.16*

History: *8 SR 694*

7075.0425 LOCAL SHARE.

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

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

B. the municipality is unable to finance the local share and qualifies for the maximum percentage according to the criteria in part 7075.0428, subpart 4;

C. application is made and approval received from the agency prior to the initiation of construction; and

D. the public health of the state and the prevention, control, and abatement of water pollution require the construction of the project.

Statutory Authority: *MS s 115.03 subd 1 para (c); 116.16*

History: *8 SR 694; 10 SR 278*

7075.0426 CONTRACT ASSIGNMENT.

A municipality that enters into a contract with a contractor or engineer for the planning, design, or construction of a part of or an entire disposal system, to be paid for in whole or in part by state construction grant funds, may assign its rights under the contract to the agency.

Statutory Authority: *MS s 115.03 subd 1; 116.16*

History: 8 SR 694

7075.0427 CONTRACT BENEFICIARY.

A municipality that enters into a contract with a contractor or engineer for the planning, designing, or construction of a part of or an entire disposal system, to be paid for in whole or in part by state construction grant funds, shall provide in the contract that the agency is a third-party beneficiary to the contract.

Statutory Authority: *MS s 115.03 subd 1; 116.16*

History: 8 SR 694

7075.0428 GRANT AMOUNTS.

Subpart 1. **State matching grants.** This subpart applies to state matching grants.

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

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

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

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

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

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

A. The agency may award state financial assistance for design of combined sewer overflow abatement projects to municipalities in an amount determined according to the same procedures for calculating an allowance under Code of Federal Regulations, title 40, part 35, appendix B.

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

- (1) Minneapolis, 24.2 percent;
- (2) Saint Paul, 71.6 percent;
- (3) South Saint Paul, 4.2 percent.

C. By no later than March 31 each year, beginning in 1987, the agency shall determine whether or not each municipality that is eligible for financial assistance under this program has submitted a complete financial assistance application and either

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the city council has adopted final orders for construction if the work is to be contracted out, or issued work proceed orders if the municipality will do the work with its own employees, for enough work to allow the municipality to utilize its total pro rata share for the present fiscal year. If the agency determines that a municipality has not submitted a complete financial assistance application and the city council has not adopted final orders for construction or the city has not issued work proceed orders, the agency shall distribute such unusable funds to other eligible municipalities that have submitted complete financial assistance applications to utilize such additional funds. For any municipality that is awarded additional funds, the city council shall adopt final orders for construction or the city shall issue work proceed orders to utilize such funds by May 31 of the present fiscal year in order to retain the funds.

Each fiscal year, beginning in 1988, allocations to a municipality that has received additional funds shall be reduced by one-third of the total amount of additional funds that have been awarded to the municipality in earlier years. These funds shall be awarded to the municipality that was initially entitled to them. In the event that, for the municipality entitled to the repayment funds, the city council still has not adopted final orders for construction or the city has not issued work proceed orders to utilize the funds in that fiscal year, the municipality awarded the additional funds is not required to make the repayment. The repayment procedure set forth in this item shall continue until the municipality has repaid all additional funds that it has been awarded or until the municipality has completed its combined sewer overflow abatement projects in their entirety.

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

Subp. 4. **Significant financial hardship.** The amount of a state matching grant awarded to a municipality which was awarded a federal grant after October 1, 1984, and before October 1, 1987, depends on the extent to which construction of the treatment works imposes a significant financial hardship on the municipality. The determination of the financial hardship and the amount of the grant must be based on per connection capital cost, median household income, and per capita adjusted assessed valuation, in accordance with the following procedures:

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

Municipality Per Connection Cost × 100 ÷ Median Per Connection Cost of Projects Bid During Previous Two Years	Percentage of Cost Funded
60 - 69	0.5
70 - 79	1.0
80 - 89	1.5
90 - 99	2.0
100 - 119	2.5
120 - 139	3.0
140 - 159	3.5
160 - 179	4.0
180 - 199	4.5
200 or more	5.0

B. The agency shall award a state matching grant for up to five percent of the eligible cost of construction based on the municipality's median household income

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compared with the state median nonmetropolitan household income. Median household income must be determined from the latest federal census. The percentage of the eligible cost to be paid for by the grant based on median household income is determined by the following table.

Municipality Median Household Income $\times 100 \div$ State Median Nonmetropolitan Household Income	Percentage of Cost Funded
100 - 104	0.5
95 - 100	1.0
90 - 94	1.5
85 - 89	2.0
80 - 84	2.5
75 - 79	3.0
70 - 74	3.5
65 - 69	4.0
60 - 64	4.5
less than 60	5.0

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

Municipality Per Capita Adjusted Assessed Valuation $\times 100 \div$ State Median Per Capita Adjusted Assessed Valuation	Percentage of Cost Funded
105 - 109	0.5
100 - 104	1.0
95 - 99	1.5
90 - 94	2.0
85 - 89	2.5
80 - 84	3.0
75 - 79	3.5
70 - 74	4.0
65 - 69	4.5
less than 65	5.0

Statutory Authority: *MS s 115.03 subd 1 para (c); 116.16; 116.162*

History: *10 SR 278; 10 SR 1758; 13 SR 2329*

7075.0429 PAYMENT OF STATE MATCHING GRANTS.

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

Subp. 2. **Step 2 matching grants for federal grants awarded before May 12, 1982.** The agency shall pay 50 percent of a Step 2 state matching grant for a federal grant awarded before May 12, 1982, when adequate plans and specifications, a user charge system, and a preliminary plan of operation have been received by the commissioner. The remaining 50 percent of the Step 2 state matching grant shall be paid when the

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agency approves of the plans and specifications, the user charge system, and the preliminary plan of operation, and after final payment has been paid by the Environmental Protection Agency.

Subp. 3. Step 2 portion of Step 2+3 matching grants for federal grants awarded before May 12, 1982. The agency shall pay 50 percent of the Step 2 portion of a Step 2+3 state matching grant for a federal grant awarded before May 12, 1982, when adequate plans and specifications, a user charge system, and a preliminary plan of operation have been received by the commissioner. The remaining 50 percent of the Step 2 state matching grant shall be paid when the agency has given authorization to bid and after final payment has been paid by the Environmental Protection Agency. The agency shall pay for eligible land costs when the municipality submits proof of purchase, if the municipality received the agency's advance approval to purchase the land.

Subp. 4. Step 2 portion of Step 2+3 matching grants for federal grants awarded after May 12, 1982. The agency shall pay 50 percent of the Step 2 portion of a Step 2+3 state matching grant awarded after May 12, 1982, when the plans and specifications are 50 percent complete, and the municipality has submitted a payment request certifying that at least 50 percent of the work on the plans and specifications is complete. The agency shall pay the remaining 50 percent of the Step 2 portion of the grant when a payment request indicating the amount of costs incurred for Step 2, the final invoice, and canceled check as proof of payment, have been submitted, the Environmental Protection Agency has paid the federal grant, and the municipality has awarded all subcontracts for construction and purchased all eligible land. The agency shall pay for eligible land costs when the municipality submits proof of purchase, provided the municipality received the agency's advance approval to purchase the land.

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

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

- A. submitted to the agency a request for the payment;
- B. provided evidence that the municipality has hired a wastewater treatment works operator having a valid state certificate;
- C. adopted the sewer use ordinance that will control wastewater discharges to the municipality's wastewater treatment system;
- D. adopted a sewer service charge system with updated cost revisions;
- E. submitted a certification by the contractor that the project was built according to the plans and specifications;
- F. submitted a copy of the as-built specifications;
- G. certified that the municipality is complying with the approved operation and maintenance manual for the treatment works;
- H. complied with the municipality's NPDES/SDS permit for the treatment works;
- I. put the treatment plant into operation and is operating the treatment plant efficiently;
- J. received final payment of the federal grant;
- K. received agency approval of a revised operation and maintenance manual;
- L. received agency approval of the final plan of operations;
- M. if the federal grant was awarded before December 29, 1981, submitted a start-up report;

N. if the federal grant was awarded on or after December 29, 1981, received agency approval of a start-up evaluation report, including certification by the municipality that the facilities meet the project performance standards; and

O. received agency approval of the final small, minority, and women's business enterprise report, which includes canceled checks or lien waivers as proof of payment.

Subp. 6. **Step 3 portion of Step 2+3 matching grant.** The agency shall pay the Step 3 portion of a Step 2+3 grant in accordance with the procedures and requirements in subpart 5.

Subp. 7. **Step 3 matching grant with allowance.** The agency shall pay 50 percent of the estimated allowance for facilities planning and design immediately after the grant is awarded provided the municipality submits a payment request. The agency shall pay the final payment of the allowance when the municipality has awarded all subcontracts for construction, purchased all eligible land, and submitted a payment request, including a copy of the final invoice and canceled check as proof of payment, and the EPA has paid the federal allowance.

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

Statutory Authority: *MS s 115.03 subd 1 para (c); 116.16*

History: *10 SR 278; L 1987 c 186 s 15*

7075.0430 PAYMENT OF INDEPENDENT STATE GRANTS.

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

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

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

C. the balance of the grant when the facilities plan has been approved by the agency, and the municipality has submitted a final payment request and a copy of the final invoice and canceled check as proof of payment.

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

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

B. Up to 50 percent of the grant when the facilities plan is received by the commissioner.

C. The balance of the grant when the facilities plan has been approved by the agency, and the municipality has submitted the final payment request and a copy of the final invoice and canceled check as proof of payment.

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

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

B. up to 50 percent of the grant when adequate plans and specifications, a user charge system, and a preliminary plan of operation are received by the commissioner; and

C. the balance of the grant when the plans and specifications, the user charge system, and the preliminary plan of operation have been approved by the agency, and the municipality has submitted the final payment request and a copy of the final invoice and canceled check as proof of payment.

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Subp. 4. **Step 2 portion of Step 2+3 grants.** The agency shall pay the Step 2 portion of a Step 2+3 grant in accordance with the procedures and requirements in part 7075.0429, subpart 4, except that no federal payment will be required. The agency shall not make the final 50 percent payment until the municipality has submitted a copy of the final invoice and canceled check as proof of payment.

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

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

B. The agency shall make periodic payments of the amount encompassing 51 to 80 percent of the Step 3 portion of the Step 2+3 grant when the municipality submits the information required in item A and has completed the following:

- (1) received agency approval of the final plan of operation;
 - (2) provided evidence that the municipality has hired a wastewater treatment works operator having a valid state certificate;
 - (3) adopted a sewer use ordinance that will control wastewater discharges to the municipality's wastewater treatment system;
 - (4) adopted a sewer service charge system with updated cost revisions;
 - (5) submitted an approvable final operation and maintenance manual;
- and
- (6) submitted a small, minority, and women's business progress report.

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

- (1) submitted a certification by the contractor that the project was built according to the plans and specifications;
- (2) submitted a copy of the as-built specifications;
- (3) certified that the municipality is complying with the approved operation and maintenance manual for the treatment works;
- (4) complied with the municipality's NPDES/SDS permit for the treatment works;
- (5) put the treatment plant into operation and is operating the treatment plant efficiently;
- (6) received agency approval of a revised operation and maintenance manual;
- (7) received agency approval of a start-up evaluation report, including certification by the municipality that the facilities meet the project performance standards;
- (8) received agency approval of the final small, minority, and women's business enterprise report, which includes canceled checks or lien waivers as proof of payment; and
- (9) submitted a final payment request and a copy of the final invoice and canceled check as proof of payment.

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

Subp. 7. **Step 3 grant with allowance.** The agency shall pay 50 percent of the estimated allowance for facilities planning and design immediately after the grant is awarded provided the municipality has submitted a payment request indicating the amount of costs incurred for facilities planning and design. The agency shall pay the

final payment of the allowance when the municipality has awarded all subcontracts for construction, purchased all eligible land, and submitted a payment request and a copy of the final invoice and canceled check as proof of payment.

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

Statutory Authority: *MS s 115.03 subd 1 para (c); 116.16*

History: *10 SR 278; L 1987 c 186 s 15*

7075.0431 PAYMENT OF ADVANCES OF ALLOWANCE.

Subpart 1. **Sewered communities.** The agency shall pay Step 1 advances of allowance for sewered communities upon submittal of a payment request by the municipality.

Subp. 2. **Unsewered communities.** The agency shall pay Step 1 advances of allowance for unsewered communities in accordance with the following schedule:

A. Twenty-five percent of the allowance upon submittal of a payment request by the municipality. If the agency determines that the municipality does not need to do additional planning for wastewater treatment, this will constitute final payment.

B. The remaining 75 percent shall be paid by the agency when the agency determines that the municipality needs to do additional planning for wastewater treatment and the municipality has submitted a payment request.

Subp. 3. **Step 2 advances of allowance.** The agency shall pay Step 2 advances of allowance upon submittal of a payment request by the municipality.

Statutory Authority: *MS s 115.03 subd 1 para (c); 116.16*

History: *10 SR 278*

7075.0432 GENERAL REQUIREMENTS.

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

Subp. 2. **Reduction in state grant payments.** For all state grants, including allowances, if the actual costs are less than the amount on which the grant was based, the agency shall reduce the grant proportionately.

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

Statutory Authority: *MS s 115.03 subd 1 para (c); 116.16*

History: *10 SR 278*

7075.0433 PAYMENT OF STATE FINANCIAL ASSISTANCE FOR COMBINED SEWER OVERFLOW ABATEMENT.

The municipality may request in writing periodic payments as work on the project progresses up to 80 percent of the total amount of the financial assistance. After final inspection, the agency shall pay the remaining 20 percent after the municipality has complied with part 7075.0430, subpart 5, item C, subitems (1), (4), and (9).

Statutory Authority: *MS s 115.03 subd 1 cl (c); 116.16; 116.162*

History: *10 SR 1758*

7075.0500 [Repealed by amendment, 8 SR 694]

7075.0600 [Repealed by amendment, 8 SR 694]

7075.0700 [Repealed by amendment, 8 SR 694]

7075.0800 [Repealed by amendment, 8 SR 694]

7075.0900 [Repealed by amendment, 8 SR 694]

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- 7075.1000 [Repealed by amendment, 8 SR 694]
- 7075.1005 [Renumbered 7077.0500]
- 7075.1010 [Renumbered 7077.0505]
- 7075.1020 [Renumbered 7077.0510]
- 7075.1030 [Renumbered 7077.0515]
- 7075.1040 [Renumbered 7077.0520]
- 7075.1050 [Renumbered 7077.0535]
- 7075.1060 [Renumbered 7077.0540]
- 7075.1070 [Renumbered 7077.0550]
- 7075.1080 [Renumbered 7077.0555]
- 7075.1090 [Renumbered 7077.0560]
- 7075.1100 [Repealed by amendment, 8 SR 694]
- 7075.1105 [Renumbered 7077.0600]
- 7075.1110 [Renumbered 7077.0605]
- 7075.1115 [Renumbered 7077.0610]
- 7075.1120 [Renumbered 7077.0615]
- 7075.1125 [Renumbered 7077.0620]
- 7075.1130 [Renumbered 7077.0625]
- 7075.1135 [Renumbered 7077.0630]
- 7075.1140 [Renumbered 7077.0640]
- 7075.1145 [Renumbered 7077.0645]
- 7075.1150 [Renumbered 7077.0650]
- 7075.1155 [Renumbered 7077.0655]
- 7075.1160 [Renumbered 7077.0660]
- 7075.1200 [Repealed by amendment, 8 SR 694]
- 7075.1300 [Repealed by amendment, 8 SR 694]
- 7075.1400 [Renumbered 7077.0700]
- 7075.1410 [Renumbered 7077.0705]
- 7075.1420 [Renumbered 7077.0710]
- 7075.1430 [Renumbered 7077.0715]
- 7075.1440 [Renumbered 7077.0720]
- 7075.1450 [Renumbered 7077.0725]
- 7075.1460 [Renumbered 7077.0730]

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7075.1470 [Renumbered 7077.0735]

7075.1480 [Renumbered 7077.0740]

7075.1490 [Renumbered 7077.0745]

7075.1500 [Renumbered 7077.0750]

7075.1510 [Renumbered 7077.0755]

7075.1520 [Renumbered 7077.0760]

7075.1530 [Renumbered 7077.0765]

CONSTRUCTION LOAN PROGRAM

7075.2000 APPLICATION FOR CONSTRUCTION LOAN PROGRAM.

Subpart 1. **Application form.** The application form shall be of the type set forth below:

Minnesota Pollution Control Agency
Division of Water Quality

Application for Disposal System Planning
and/or Construction Loan

To be filled in by
the State

Date Received _____
Project Number _____
Loan Request _____

Legal Name of Applicant

Address, Zip Code

Hereby Makes Application to the Pollution Control Agency of the State of Minnesota for a Loan of Funds for the Planning and/or Construction of:

Financial Aspects:

Estimated Project Cost \$ _____
State Loan Funds _____
Local Funds _____
Other Funds _____

Project Schedule:

Project Starting Date _____

Time to Complete Project _____

Name and Title of Official

Signature of Official

Date

Subp. 2. **Attachments for planning loan.** The planning loan application form shall be supported by the following attachments:

A. resolution of the governing body authorizing the filing of the application and designating the municipal official authorized to sign the application;

B. resolution of the governing body of the municipality obligating the municipality to repay the loan to the commissioner of finance in annual installments including

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both principal and interest, each in an amount sufficient to pay the amount due within five years from user charges, taxes, special assessments, or other funds available to it;

C. resolution of the governing body of the municipality obligating the municipality to establish rates and charges or the execution of contracts sufficient to produce the revenues pledged if required by the agency;

D. proposed method of loan repayment; and

E. proposed contracts for engineering, legal, planning, and other consulting services.

Subp. 3. Attachments for construction loan. The construction loan application form shall be supported by:

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

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

Subp. 4. Submission. The loan application form and attachments shall be submitted in duplicate to the agency at the address specified by the commissioner. Substantial deficiencies in the application and supporting documents or failure to conform with applicable requirements as those set forth in the current agency water pollution control program plan or the applicable basin, regional, or area water quality management plan shall be grounds for rejection. A construction loan application shall be rejected at the discretion of the agency if it does not include an engineering report acceptable to the commissioner, include an adequate commitment for support of operation and maintenance of the project, conform to the intent of the applicable statutes, contribute to the overall objectives of effective water quality management, or is not considered to be in the best interests of the state.

Subp. 5. Time restriction. Applications must be restricted to projects or portions of projects for which service contracts or construction contracts can be awarded by June 1, except in cases of advance approval by the commissioner, of the state fiscal year in which the loan is applied for.

Statutory Authority: *MS s 115.03 subd 1 para (c); 116.16*

History: *8 SR 694; 10 SR 278; L 1987 c 186 s 15; L 2003 c 112 art 2 s 50*

7075.2100 ADMINISTRATION OF CONSTRUCTION LOAN PROGRAM.

Subpart 1. Allocation of state funds. The allocation of state funds shall be established in accordance with parts 7075.0403 to 7075.0406 and priority rating points assignable to loan applications shall be established in accordance with part 7075.2200. Funds allocable to loans shall be determined each fiscal year by the agency on the basis of total availability and demand for grants.

Subp. 2. Tender of planning loan. Planning applications which receive a priority rating sufficiently high in relation to available funds shall be tendered a state planning loan. Within 60 days after the acceptance of the offer and award of contracts, for engineering, legal, and other consulting services the state payment shall be made.

Subp. 3. Tender of construction loan. Construction loan applications which receive a priority rating sufficiently high in relation to available funds shall be tendered a state construction loan. Within 30 days after acceptance of the offer and award of the construction contract for the project, the state payment shall be made.

Subp. 4. Monthly payments. Principal and interest, each in an amount sufficient to pay the principal amount within the loan period, shall be paid in equal annual

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installments to the commissioner of finance. Interest shall be calculated on the declining balance at the average annual interest rate on state bonds of issue from the proceeds of which the loan was made.

Subp. 5. **Priority ratings.** Priority ratings shall be established each fiscal year for loan applications filed on or before the beginning of the state fiscal year. Applications postmarked or hand delivered after that day shall be rejected.

Statutory Authority: *MS s 115.03 subd 1; 116.16*

History: *8 SR 694; L 2003 c 112 art 2 s 50*

7075.2200 CRITERIA FOR DETERMINING LOAN PRIORITY.

Subpart 1. **Order of priority for planning loan applications.** The determination of the order of priority for planning loan applications shall comply with the criteria in parts 7075.0403 to 7075.0406. Rating points shall be awarded to a municipality by summing up the applicable percentage points for the project from the tables in part 7075.0428, subpart 4, items A, B, and C.

Subp. 2. [Repealed, 10 SR 278]

Subp. 3. [Repealed, 10 SR 278]

Subp. 4. [Repealed, 10 SR 278]

Subp. 5. **Construction loans.** The determination of the order of priority for construction loan applications shall comply with parts 7075.0403 to 7075.0406.

Statutory Authority: *MS s 115.03 subd 1 para (c); 116.16*

History: *8 SR 694; 10 SR 278*

7075.2505 [Renumbered 7077.0400]

7075.2510 [Repealed, 15 SR 288]

7075.2515 [Renumbered 7077.0405]

7075.2520 [Renumbered 7077.0410]

7075.2525 [Renumbered 7077.0415]

7075.2530 [Renumbered 7077.0420]

7075.2535 [Renumbered 7077.0425]

7075.2540 [Renumbered 7077.0430]

7075.2545 [Renumbered 7077.0440]

7075.2550 [Renumbered 7077.0445]

PROCEDURAL REQUIREMENTS

7075.4900 PROCEDURAL RULES AND APPEALS.

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

Statutory Authority: *MS s 115.03 subd 1; 116.16*

History: *8 SR 694*

7075.5000 VARIANCES.

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

Statutory Authority: *MS s 115.03 subd 1; 116.16*

History: *8 SR 694*