

CHAPTER 7077
MINNESOTA POLLUTION CONTROL AGENCY
WATER QUALITY DIVISION
WASTEWATER TREATMENT ASSISTANCE

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7077.0705 DEFINITIONS.

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

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

Subp. 2a. **Application cycle.** "Application cycle" means the development of an on-site funding list and the acceptance, review, and approval of written applications for individual on-site wastewater treatment system grant funds.

Subp. 5a. **Cluster on-site wastewater treatment system or cluster system.** "Cluster on-site wastewater treatment system" or "cluster system" means a wastewater treatment system, or part of a system, that uses subsurface soil treatment and disposal to serve two or more dwellings or other establishments. Only cluster systems that serve five or fewer dwellings or other establishments are eligible for grant assistance.

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

Subp. 7. **Designer.** "Designer" means a person who designs on-site wastewater treatment systems that conform to chapter 7080, and has received agency approval under part 7077.0720.

[For text of subp 8, see M.R.]

Subp. 9. **Failed system.** "Failed system" means a wastewater treatment system that does not conform to chapter 7080 and has been issued an abatement notice by the municipality.

Subp. 10. **Individual on-site wastewater treatment system or individual system.** "Individual on-site wastewater treatment system" or "individual system" means a wastewater treatment system, or part of a system, serving one dwelling or other establishment, that uses subsurface soil treatment and disposal.

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

Subp. 12. **Installer.** "Installer" means a person who constructs or repairs on-site wastewater treatment systems according to chapter 7080, and has received agency approval under part 7077.0720.

[For text of subp 12a, see M.R.]

Subp. 13. Median household income. "Median household income" means the income data named "median household income" from the most recent decennial census of the United States or the median household income calculated by the municipality and approved by the commissioner for alternative planning areas.

[For text of subps 14 to 16, see M.R.]

Subp. 16a. Planning area. "Planning area" means an area of contiguous dwellings or other establishments. A planning area is the entire geographic area within a municipality's jurisdiction unless the commissioner approves an alternative area.

Subp. 16b. Provisional certification. "Provisional certification" means an apprenticeship status given to persons that have participated in the state individual sewage treatment system certification program and passed the certification examination, but lack the experience required for full certification.

[For text of subp 17, see M.R.]

Subp. 17a. Site evaluation costs. "Site evaluation costs" means the expenses associated with a site evaluation, which include the cost of a site evaluator, soil borings, percolation tests, and the determination of topographical features.

Subp. 18. Site evaluator. "Site evaluator" means a person who investigates soils and site characteristics to determine suitability, limitations, soil type, and sizing requirements for designing on-site wastewater treatment systems that conform to chapter 7080, and has received agency approval under part 7077.0720.

Subp. 18a. System design costs. "System design costs" means the expenses charged by a designer to complete the necessary calculations for system size, location, materials, and other items necessary to develop a bed, trench, or mound wastewater treatment system design that conforms to chapter 7080.

Subp. 19. Trench or bed system. "Trench or bed system" means a wastewater treatment system employing a building sewer, sewage tank, and the soil treatment system consisting of trenches or a seepage bed constructed below the original soil surface.

Statutory Authority: *MS s 116.18*

History: *16 SR 1800*

7077.0710 ELIGIBILITY.

Subpart 1. Eligibility to participate. Only municipalities, as defined under part 7077.0105, subpart 24, are eligible to participate in the individual on-site wastewater treatment systems grants program.

Subp. 2. Eligibility of individual and cluster systems. For an individual or cluster system to be eligible to be included in a municipality's grant application and to receive grant funds it must meet the following conditions:

- A. be a failed system;
- B. have been constructed before January 1, 1977;
- C. not be serving a seasonal residence;
- D. not have been constructed with state or federal water pollution control funds; and
- E. be located within the project planning area.

Subp. 3. Eligibility of funded areas. On-site wastewater treatment systems located in geographic areas that were included in planning areas of projects previously funded with state or federal water pollution control funds are not eligible for funding under this program.

Subp. 4. Eligibility of alternative planning area. The commissioner shall eval-

uate any written municipal proposal for a project planning area that is less than the municipality's entire geographic jurisdiction. The commissioner's evaluation of the proposal shall be based on housing density, water quality impact, and public health impact. Separate dwellings or other establishments that are not part of a contiguous area shall not be approved as or part of a planning area.

Subp. 5. Eligibility to submit a request to be placed on the on-site funding list. The commissioner shall only accept requests to place projects on the on-site funding list under part 7077.0713 from municipalities that:

A. have authorization from their governing bodies to assume the responsibility for the proposed grant projects and the associated official documents; and

B. have planning areas that have been approved by the commissioner.

Subp. 6. Eligibility to submit grant application. The authority shall accept grant applications only from municipalities that have:

A. successfully submitted requests to be placed on the on-site funding list;

B. been classified as fundable on the on-site funding list; and

C. received written notification from the commissioner to submit applications.

Statutory Authority: *MS s 116.18*

History: *16 SR 1800*

7077.0713 ON-SITE FUNDING LIST.

Subpart 1. On-site funding list. An on-site funding list shall be compiled by the commissioner before each grant application period. The list shall be used to determine which municipalities are eligible to apply for individual on-site wastewater treatment system grant funds.

Subp. 2. Requirements for placement on the on-site funding list. To be placed on the on-site funding list a municipality must meet the requirements of part 7077.0710, subpart 5, and either item A, B, or C, as appropriate.

A. A municipality with a project proposal must submit a written request for the project to be placed on the on-site funding list to the commissioner during a submittal period announced by a notice in the State Register. The notice shall include submittal deadlines and conditions. The placement request must be made on forms provided by the agency and must include:

(1) a resolution of the governing body of the municipality that designates the municipality as the responsible party for the on-site funding list placement request and future grant application, authorizes the filing of the request and future application, and designates the municipal official authorized to sign the request, future application, and related documents;

(2) a map of the municipal jurisdiction or approved alternative planning area;

(3) a preliminary list that identifies the addresses of the on-site wastewater treatment systems that are suspected to be failed and that meet the eligibility requirements under part 7077.0710, subpart 2;

(4) median household income data or alternative median household income data that includes income data and computation methodology for municipalities and planning areas not included in the decennial census;

(5) the municipality's estimated date of site evaluation, design, and construction for all eligible systems;

(6) a copy of a draft ordinance for adopting the requirements of chapter 7080 and establishing a maintenance plan for the individual on-site wastewater treatment systems within the jurisdiction of the municipality; and

(7) the estimated amount of grant funding necessary for eligible site evaluation, system design, and construction costs.

B. A municipality with a project that has been awarded a partial grant under part 7077.0735, subpart 2, shall submit a written request for the remaining grant fund entitlement to the commissioner by the published placement-request submittal deadline described under item A.

C. A municipality eligible for a grant increase amendment under part 7077.0735, subpart 4, item A, shall submit a written request for the grant increase to the commissioner by the published placement-request submittal deadline described under item A.

Subp. 3. Incomplete requests. Municipalities that submit placement requests that do not include the information required in subpart 2 or that are not post-marked by the published deadline shall not be placed on the on-site funding list.

Subp. 4. Priority ranking. Priority ranking of projects will be based on the median household income approved by the commissioner for the project planning area. Ranking on the on-site funding list shall be determined as described in items A to C:

A. Partial award projects shall be ranked before other grant increase amendments and project proposals. Partial award projects shall be ranked with the lowest median household income receiving the highest priority.

B. Grant increase amendments other than for partial awards shall be ranked after the lowest priority partial award project on the on-site funding list and before project proposals. These grant increases shall be ranked with the lowest median household income receiving the highest priority.

C. Project proposals shall be ranked after the lowest priority grant increase amendment project on the on-site funding list. Project proposals shall be ranked with the lowest median household income receiving the highest priority.

Subp. 5. Determination of fundable range. To determine the fundable range on the on-site funding list, the commissioner shall subtract the estimated grant amount or calculated grant increase for each project, in order of decreased priority, from the amount available in the individual on-site wastewater treatment system grant fund. The projects classified as fundable are those that have their estimated or calculated project costs subtracted before the grant fund amount is depleted or diminished to an amount too small to complete the majority of the project next in priority on the on-site funding list.

Subp. 6. Determination of projects eligible to submit applications. Only municipalities with projects classified as fundable on the on-site funding list are eligible to submit applications.

Subp. 7. Exclusion from fundable range. Projects not classified as fundable on the on-site funding list must resubmit the documents required under subpart 2 during a subsequent placement request period.

Subp. 8. Commissioner notification. The commissioner shall notify each municipality of the on-site funding list priority for its project.

Statutory Authority: *MS s 116.18.*

History: *16 SR 1800*

7077.0715 [Repealed, 16 SR 1800]

7077.0720 APPROVAL OF INDIVIDUAL ON-SITE WASTEWATER TREATMENT PERSONNEL.

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

Subp. 2. First alternate approval criteria. A person referred to in subpart 1 will be approved by the commissioner if the person is fully certified by the agency

through the individual sewage treatment systems certification program administered by the agency in cooperation with the Individual Sewage Treatment Systems Advisory Committee established under part 7080.0100. Approval is automatic upon submittal of certification number. Provisional certification does not fulfill this approval criteria.

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

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

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

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

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

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

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

[For text of subps 4 and 5, see M.R.]

Statutory Authority: *MS s 116.18*

History: *16 SR 1800*

7077.0725 GRANT APPLICATION.

Subpart 1. Eligibility. No municipality shall submit an individual on-site wastewater treatment system grant application unless it meets the eligibility requirements of part 7077.0710, subpart 6. The written notification from the commissioner shall include application submittal conditions and deadlines. No municipality is eligible for a grant unless a complete grant application has been submitted to the authority and has been certified by the commissioner. A complete application includes all the documents required under subpart 2.

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

A. the wastewater treatment plan adopted by the municipality's governing body that identifies wastewater treatment needs, proposes long-term solutions for a planning area, and includes:

(1) a planning area survey prepared by an inspector that identifies all systems in the planning area as failed systems or systems in compliance with chapter 7080;

(2) site evaluations, including soil investigations, soil borings, and percolation tests for the failed systems identified in subitem (1) prepared by a site evaluator and a determination if it is feasible to replace or upgrade the failed systems on-site made by a system designer;

(3) a summary of the proposed systems that includes sizing, location, and design, prepared by a designer using data from the site evaluations prepared under subitem (2);

(4) a list of the failed individual on-site wastewater treatment systems, including addresses and names of property owners, that meet the eligibility requirements under part 7077.0710, subpart 2, and copies of the abatement notices;

(5) an analysis of the overall wastewater treatment needs in the planning area including a proposal for addressing the remaining wastewater treatment needs in the planning area not covered in subitem (4), including specific actions to be taken and a proposed timetable for addressing the wastewater treatment needs;

(6) documentation of approval of the project inspector, site evaluator or site evaluators, designer, and installer under part 7077.0720; and

(7) a certification of adoption of the wastewater treatment plan from the municipality's governing body;

B. a copy of the enacted ordinance that adopts the requirements of chapter 7080, individual sewage treatment system standards; and establishes a maintenance plan for the on-site wastewater treatment systems in the municipal jurisdiction and certification that the ordinance is being enforced;

C. signed statements of compliance with the eligibility requirements under part 7077.0710, subpart 2, items B to E, from the individual system owners;

D. the amount of grant funding requested for site evaluation, system design, and construction and a certification stating that only eligible costs have been requested;

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

F. a statement from the municipality that it has an inspector on staff or under contract for services; and

G. an assurance from the municipality that states that all owners of dwellings or other establishments planned to be connected to a cluster system agree to be part of the system, to participate in the construction projects, and to participate in and finance future operation, maintenance, and replacement of the system.

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

Subp. 4. Application closing date. The application deadline shall not be less than 150 days after the placement request submittal deadline identified under part 7077.0713, subpart 2, item A. The commissioner shall send written notification of the application deadline to municipalities that are eligible to submit grant applications. The application must be postmarked by the specified application deadline.

Subp. 5. Incomplete applications. Municipalities that submit applications postmarked by the application deadline that require additional information to be considered complete under subpart 2, have 45 days from the application deadline to submit the information needed to make the application approvable. If an application is not completed within this 45 days, the municipality is ineligible for funding. Ineligible municipalities must wait to reapply until the on-site funding list placement requirements have been met and the project has been classified as fundable under part 7077.0713 during a subsequent application cycle.

Subp. 6. Three copies. Individual on-site wastewater treatment system grant application forms and attachments must be submitted in triplicate to the authority. At least one set of forms and attachments must contain original signatures.

Subp. 7. Application approval. The commissioner shall review and approve grant applications from municipalities that meet the requirements under this part.

Statutory Authority: *MS s 116.18*

History: *16 SR 1800*

7077.0730 ELIGIBLE COSTS.

Subpart 1. Eligible costs. Only the actual site evaluation, system design, and construction costs of upgrading or replacing failed individual or cluster on-site wastewater treatment systems that have been identified under part 7077.0725, subpart 2, item A; subitem (4), are eligible. Upgraded or replacement systems must be a trench, bed, or mound design and serve five or fewer dwellings or other establishments to be eligible for grant participation. Only the costs associated with one system shall be eligible for each dwelling or other establishment.

Subp. 2. Ineligible costs. All inspection, administrative, land, and easement costs are ineligible. Planning and engineering costs, other than for site evaluation and system design, are also ineligible.

Subp. 3. [Repealed, 16 SR 1800]

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

A. the owner's system is specifically identified on the wastewater treatment plan as required under part 7077.0725, subpart 2, item A, that was approved by the municipality and the commissioner before construction costs are incurred; and

B. all work has been done by personnel approved under part 7077.0720, and according to chapter 7080 and the approved wastewater treatment plan.

Statutory Authority: *MS s 116.18*

History: *16 SR 1800*

7077.0735 AMOUNT OF GRANT AWARD.

Subpart 1. Grant amount. The amount of the grant to be awarded will be the sum of items A and B:

A. 50 percent of the construction costs eligible under part 7077.0730 up to a maximum amount of \$2,500 per dwelling or other establishment for a trench or bed system and \$3,750 per dwelling or other establishment for a mound system; and

B. 50 percent of the site evaluation and system design costs eligible under part 7077.0730 up to a maximum amount of \$150 per dwelling or other establishment.

Subp. 2. Partial awards. A municipality that receives only a part of the grant to which it is entitled, due to the limitation of funding, will be entitled to receive a grant amendment in the next year or years, if individual on-site wastewater treatment systems grant funding is available, until the full amount of the grant is awarded. If a municipality accepts a partial grant it must identify which project elements will be completed with the grant as part of the grant agreement.

Subp. 3. Funds not allocated. Individual on-site wastewater treatment system grant funds that are not allocated for a fundable project, that are refused by a municipality, or that are denied award by the commissioner or authority shall remain in the grant fund for distribution during the next application cycle.

Subp. 4. Amendments. Grant amendments shall be made as described in items A and B:

A. Grant increase amendments shall only be made to fulfill the original grant entitlement for municipalities that receive partial awards as described

under subpart 2, to reimburse the eligible cost for failed on-site treatment systems in a project planning area that were not identified on the on-site funding list placement request, and to reimburse site evaluation and system design costs eligible under subpart 1, item B, for municipalities that received individual on-site wastewater treatment system grant awards before July 1, 1991. Grant increases shall be made during an application cycle when on-site funds are available and the grant increase has been classified as fundable on the corresponding on-site funding list.

B. Grant decrease amendments shall be made upon project completion to reduce the grant to correspond with the amount of incurred, grant eligible costs.

Statutory Authority: *MS s 116.18*

History: *16 SR 1800*

7077.0740 [Repealed, 16 SR 1800]

7077.0745 CERTIFICATION OF AWARD.

Subpart 1. **Certification to authority.** The commissioner will certify each individual on-site wastewater treatment system grant application approved under part 7077.0725, subpart 7, and grant amendment approved under part 7077.0735, subpart 4, to the authority for award. Grant eligible costs, award amounts, and eligible budget periods will be determined at the time of certification.

Subp. 2. [Repealed, 16 SR 1800]

Subp. 3. [Repealed, 16 SR 1800]

Statutory Authority: *MS s 116.18*

History: *16 SR 1800*

7077.0750 PAYMENT CONDITIONS.

Payment of the grant is contingent on complying with the following conditions:

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

D. The upgrade or replacement to the existing system must meet the standards under chapter 7080 and must be completed in accordance with the approved wastewater treatment plan.

E. Costs on the payment request have been incurred and are eligible under part 7077.0730.

Statutory Authority: *MS s 116.18*

History: *16 SR 1800*

7077.0755 PAYMENTS.

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

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

Subp. 3. **Documentation.** Before payment of any part of the grant is made, the municipality must certify to the agency that the payment conditions under part 7077.0750 have been fulfilled and invoices that document incurred site evaluation, system design, and construction costs for each upgraded or replaced on-site system will be kept on file for state audit purposes.

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

Statutory Authority: *MS s 116.18*

History: *16 SR 1800*

7077.0760 TERMINATION OF GRANT.

Failure of the municipality to comply with the grant agreement or parts 7077.0700 to 7077.0765 constitutes grounds for the commissioner to recommend that the authority terminate the grant.

Statutory Authority: *MS s 116.18*

History: *16 SR 1800*

7077.0765 SUBSEQUENT GRANTS.

A municipality awarded a grant from the individual on-site wastewater treatment systems grants program is not eligible for additional funding under the program established by the 1972 Federal Water Pollution Control Act amendments or the state independent grants program, including the individual on-site wastewater treatment systems grants program, unless the municipality is applying for a project that serves a planning area that was not included, under part 7077.0725, subpart 2, item A, in the awarded grant.

Statutory Authority: *MS s 116.18*

History: *16 SR 1800*