

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

File No. 1545 Docket No. 05-0009-0698

DATE RECEIVED 12/12/88 ADOPTED W/O HEARING Y

REVIEW DATE 12/21/88 EMERGENCY RULE

DUE DATE 12/~~25~~ 27/88 REVISOR APPROVED

APPROVED 12/27/88 REVISOR DISAPPROVED

DISAPPROVED FILED W/SEC. OF STATE

WITHDRAWN RETURNED TO AGENCY

✓ Rule as adopted (4 copies)

✓ Notice to Solicit Outside Information/Opinion (if applicable)

8/17/87 Date published in State Register

Comments

~~Petition for Adoption of a Rule (if applicable)~~

✓ Board's Authorizing Resolution

8/1/88 Date adopted

✓ Proposed Rule

YES Revisor's Certificate

✓ Notice of Intent to Adopt Rule

116.18 subd 3c (f) Statutory Authority

yes Small Business Statement

yes Expenditure of public money statement

yes Signature

✓ Statement of Need and Reasonableness (if applicable)

YES Small Business Statement

N/A Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule

8/4/88 Date (30)/25 days before adoption

SAC Notice attached

~~Copy of rule or summary attached~~

✓ Publication in State Register

8/15/88 Date (30)/25 days before adoption

180-day deadline from:

~~8/15/88~~ 9/15/88 end of comment period (§ 14.26) (rules without hearing)

~~effective date of statutory authority (§ 14.29) (emergency rules)~~

✓ Resolution Adopting

10/26/88 Date adopted

✓ Findings of Fact, Conclusions & Order Adopting

11/10/88 Date

~~Written requests, submissions or comments~~

✓ Declaration of attorney

Bev Conerton Name of SAAG representing agency

~~Notice of Submission to Atty. Gen. (if applicable)~~

~~Aff. of Mailing Notice to Atty. Gen. (if applicable)~~

ATTORNEY GENERAL

January 3, 1988

BEVERLY CONERTON
Special Assistant
Attorney General

JULIE A. LEPPINK
Special Assistant
Attorney General

6-9422

In the Matter of the Adopted Rule Relating to
Individual On-Site Wastewater Treatment Grants

The above-referenced rule has been approved as to its legality by the Attorney General on December 27, 1988.

Enclosed is the agency's copy of the approved rule. This office has already filed two copies with the Secretary of State who will forward one copy to the Revisor of Statutes. The fourth is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submission or comments received by the agency and any extra copies of documents which the agency submitted to the Attorney General.

In order for a permanent rule without a hearing to become effective, your agency must publish a notice of adoption in the State Register in accoradance with Minn. Stat. §14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. §14.34.

If you have any questions in this regard, please contact me.

JAL:rer
Enclosures

cc: Maryanne Hruby
Executive Director
Legislative Commission to Review
Administrative Rules

William Brown
Chief Administrative Law Judge
Office of Administrative Hearings

Pollution Control Agency

Adopted Permanent Rules Relating to Individual On-Site Wastewater Treatment Grants.

Rules as Adopted

INDIVIDUAL ON-SITE WASTEWATER TREATMENT SYSTEMS GRANTS PROGRAM

7075.1400 PURPOSE.

Parts 7075.1400 to 7075.1530 provide for the administration of the individual on-site wastewater treatment systems grants program that makes grants available to municipalities to assist owners of individual on-site wastewater treatment systems to upgrade or replace their failed individual on-site wastewater treatment systems.

7075.1410 DEFINITIONS.

Subpart 1. **Scope.** For the purpose of parts 7075.1400 to 7075.1530 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 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. 3. **Agency.** "Agency" means the Minnesota Pollution Control Agency.

Subp. 4. **Authority.** "Authority" means the Minnesota Public Facilities Authority.

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

Subp. 6. **Construction cost.** "Construction cost" means the cost of the materials, labor, overhead, and profit necessary for installation, construction, and repair of an individual 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 individual on-site wastewater treatment systems, and has received agency approval under part 7075.1440.

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

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

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 or two dwellings or other establishments, that uses subsurface soil treatment and disposal.

Subp. 11. **Inspector.** "Inspector" means a person employed by or under contract to the municipality who inspects individual on-site wastewater treatment systems for conformance with the ordinance that adopts the requirements of chapter 7080, and has received agency approval under part 7075.1440.

Subp. 12. **Installer.** "Installer" means a person who constructs or repairs individual on-site wastewater treatment systems, and has received agency approval under part 7075.1440.

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.

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

Subp. 15. **Municipality.** "Municipality" means any county, city, town, the Metropolitan Waste Control Commission established in Minnesota Statutes, chapter 473, the Metropolitan Council when acting under that chapter, an Indian tribe or an

authorized Indian tribal organization, or any other governmental subdivision of the state responsible by law for the prevention, control, and abatement of water pollution in any area of the state.

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

Subp. 17. **Seasonal residence.** "Seasonal residence" means a dwelling used for less than 182 days of a calendar year by a single family or household. Second homes, vacation residences, and recreation residences are included in this definition.

Subp. 18. **Site evaluator.** "Site evaluator" means a person who investigates soils and site characteristics, does soil borings or percolation tests for use in designing individual on-site wastewater treatment systems, and has received agency approval under part 7075.1440.

Subp. 19. **Trench or bed system.** "Trench or bed system" means an individual 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.

7075.1420 ELIGIBILITY.

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

A. be authorized by its governing body to assume responsibility for the grant application and related documents for owners of individual on-site wastewater treatment systems who are in its jurisdiction and included in the planning area under part 7075.1430, subpart 2;

B. have developed and adopted a wastewater treatment plan under part 7075.1430;

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

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

E. have a median household income that is less than the state median household income. Municipalities not included in the decennial census shall submit an alternate median household income figure for their municipality, supported by complete income data and a computation methodology. If the data is complete and the computation methodology is equivalent to the decennial census, the alternate median household income will be approved by the commissioner.

Subp. 2. **Individual system eligibility.** The individual systems to be replaced or upgraded included in the municipality's grant application 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; and

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

Subp. 3. **Previous funding.** Individual 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 part.

7075.1430 WASTEWATER TREATMENT PLAN.

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

Subp. 2. **Planning area.** The planning area is the entire geographic area in the municipality's jurisdiction unless the municipality submits an alternative proposal at the time of application. Alternative proposals must be approved by the commissioner and will be evaluated based on housing density,

water quality impact, and public health impact.

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

A. a planning area survey prepared by an inspector that identifies failed systems;

B. site evaluations, including soil investigations, for the failed systems prepared by a site evaluator or site evaluators to determine if it is feasible to replace or upgrade systems on site;

C. an analysis of the overall wastewater treatment needs in the municipality prepared by a designer using data from a site evaluator or site evaluators;

D. a list of the specific failed individual on-site wastewater treatment systems, including addresses and names of property owners requesting grant funds and copies of the abatement notices;

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

F. documentation of approval of the inspector, site evaluator or site evaluators, and designer under part 7075.1440.

Subp. 4. **Approval of plan.** The commissioner will review the parts of the plan submitted under subpart 3, items B and C, and approve them if they are in conformance with chapter 7080.

7075.1440 APPROVAL OF INDIVIDUAL ON-SITE WASTEWATER TREATMENT PERSONNEL.

Subpart 1. **General requirement.** For the purposes of parts 7075.1400 to 7075.1530, inspectors, site evaluators, designers, and installers who inspect, evaluate sites for, design, and install individual 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.

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.

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

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

(1) An inspector must submit a list of individual 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 individual 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 individual 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 individual 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.

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

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

7075.1450 APPLICATION.

Subpart 1. **Notice of taking applications.** The commissioner will request the authority to publish in the State Register a notice that applications for individual on-site wastewater treatment grants will be accepted by the authority. The application closing date will be established by the commissioner, and will be no less than 90 days after the publication date.

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

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

B. the wastewater treatment plan prepared under part 7075.1430;

C. a copy of the ordinance that adopts the requirements of chapter 7080 and certification that the

ordinance is being enforced;

D. a copy of the ordinance establishing a maintenance plan under part 7075.1420, item D;

E. alternative median household income data under part 7075.1420, item E, for municipalities not included in the decennial census;

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

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

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

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

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

H. a statement from the municipality that it has an inspector on staff or under contract for services, including documentation of approval under part 7075.1440.

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

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

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

7075.1460 ELIGIBLE COSTS.

Subpart 1. **Eligible costs.** Only the actual construction costs of upgrading or replacing failed individual on-site

wastewater treatment systems that have been identified under part 7075.1430, subpart 3, item D, are eligible.

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

Subp. 3. **Number of systems limitation.** The eligibility of costs for a treatment site is limited to either a trench or bed system or a mound system under part 7075.1470, subpart 1.

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 municipality has developed and adopted a wastewater treatment plan as described in part 7075.1430 before construction costs are incurred by the owner of the individual system;

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

C. the municipality submits a complete and timely application, during the first noticed application period under part 7075.1450, subpart 1, following the adoption of the wastewater treatment plan.

7075.1470 AMOUNT OF THE GRANT AWARD.

Subpart 1. **Grant amount.** The amount of the grant will be 50 percent of the actual eligible costs under part 7075.1460 up to a maximum grant of $2,500 per trench or bed system and $3,750 per mound system.

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.

7075.1480 PRIORITY RANKING.

Municipalities that meet the requirements of parts 7075.1420 to 7075.1450 will be ranked for funding priority from lowest median household income to highest median household income, with the lowest median household income receiving the highest priority.

7075.1490 CERTIFICATION OF AWARD.

Subpart 1. **Funding list.** The commissioner will prepare a list of municipalities eligible to receive grant funding under this program.

Subp. 2. **Public participation.** The following provisions govern public participation:

A. The commissioner will prepare an individual on-site wastewater treatment systems grants funding list and make it available to the public at least 45 days before adoption. The commissioner shall mail a free copy of the proposal to any interested person upon request.

B. The commissioner will give affected municipalities at least 45 days notice of the agency board meeting at which the funding proposal will be acted upon.

C. Interested persons may present oral statements at the agency board meeting. The chair may place reasonable restrictions upon the time and manner in which oral comments are submitted. Written statements must be received by the agency board at least five days before the meeting.

Subp. 3. **Certification to authority.** The commissioner will certify to the authority the individual on-site wastewater treatment systems grants program funding list approved by the agency.

7075.1500 PAYMENT CONDITIONS.

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

A. The upgrade or replacement to the existing system must be designed by a designer using data from a site evaluator.

B. The upgrade or replacement to the existing system must be constructed by an installer.

C. The upgrade or replacement to the existing system must be inspected and approved by the inspector.

7075.1510 PAYMENTS.

Subpart 1. **Request for payments.** A municipality must submit payment requests to the commissioner on a form provided by the commissioner.

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

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

A. invoices documenting incurred construction costs;

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

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

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

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

7075.1520 TERMINATION OF GRANT.

Failure of the municipality to comply with the construction schedule contained in the grant agreement constitutes grounds for the commissioner to recommend that the authority terminate the grant.

7075.1530 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 7075.1430, subpart 2, in the awarded grant.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

DEC 27 1988

Joan Anderson Growe

Secretary of State

4:30 PM

APPROVED AS TO FORM AND LEGALITY

December 27 19 88

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY

SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rules
Relating to the Administration of the
Individual On-site Wastewater Treatment
Systems Grants Program,
Minn. Rules ch. 7075

STATEMENT OF NEED
AND REASONABLENESS

I. INTRODUCTION

In 1987, the legislature created a set-aside under the independent state grants program for the award of grants to municipalities to assist owners of individual on-site wastewater treatment systems to upgrade or replace failed systems, Minn. Stat. §116.18, subd. 3c., hereinafter called the "authorizing statute."

In drafting the proposed rules, the Agency sought and received input from interested municipalities and the Technical Advisory Committee for wastewater treatment control, established under Minn. Stat. §115.54. This document contains the Agency's affirmative presentation of facts on the need for and reasonableness of the proposed rules.

II. STATEMENT OF AGENCY'S STATUTORY AUTHORITY

The Agency's statutory authority to adopt rules for the administration of the program is set forth in Minn. Stat. §116.18, subd. 3c, items (a) and (f) (Supp. 1987), which provides:

> Subd. 3c. Individual on-site treatment systems program.
>
> (a) Beginning in fiscal year 1989, up to ten percent of the money to be awarded as grants under subdivision 3a in any single fiscal year, up to a maximum of $1,000,000, may be set aside for the award of grants by the authority to municipalities to reimburse owners of individual on-site wastewater treatment systems for a part of the costs of upgrading or replacing the systems.
>
> (f) The Agency shall adopt permanent rules regarding priorities, distribution of funds, payments, inspections, and other matters that the Agency finds necessary for proper administration of grants awarded under this subdivision.

Under this statute the Agency has the necessary statutory authority to adopt the proposed rules.

III. STATEMENT OF NEED

Minn. Stat. ch. 14 (1986) requires the Agency to make an affirmative presentation of facts establishing the need for and reasonableness of the rules as proposed. In general terms, this means that the Agency must set forth the reasons for its proposal, and the reasons must not be arbitrary or capricious. However, to the extent that need and reasonableness are separate, need has come to mean that a problem exists which requires administrative attention, and reasonableness means that the solution proposed by the Agency is appropriate. The need for the rules is discussed below.

The legislature, in enacting the program, required the Agency to develop administrative rules to implement and administer the program. The program is an effort to simplify the funding process and to reduce costs for unsewered municipalities where it is technically feasible and economically practical to retain existing individual on-site wastewater treatment systems as an alternative to a centralized wastewater treatment system. Under the existing construction grants programs, both federal and state, it is possible for a municipality to construct individual on-site systems; however, these systems have historically cost more than systems installed by individual owners without grant assistance. No formal analysis has been done to determine the cause for the discrepancy in costs. The Agency will evaluate the individual on-site wastewater treatment systems grants program results and the costs savings after the program is operational.

IV. STATEMENT OF REASONABLENESS

The Agency is required by Minn. Stat. ch. 14 to make an affirmative presentation of facts establishing the reasonableness of the proposed rules.

Rules are reasonable if they are not arbitrary or capricious. Reasonableness means that there is a rational basis for the Agency's proposed action. The reasonableness of the proposed rules is discussed below.

A. Reasonableness of the Rules as a Whole

The proposed rules establish a reasonable method for distributing the grant assistance efficiently and equitably while allowing the Agency to ensure the protection of grant funds and the environment.

The authorizing statute targets the grant funds directly to owners of individual systems but requires owners to apply through a sponsoring municipality. The proposed rules are structured to lessen Agency oversight by making the municipality responsible for inspection, identification of failed systems, and approval of the individual systems. The Agency proposes in the rules to require personnel directly involved with site evaluation, design, installation, and inspection of the systems to be approved by the Agency to provide reasonable assurance that individual systems will be designed, located, and installed according to the standards and criteria in Minn. Rules ch. 7080. The rules strike a balance between relinquishing detailed Agency oversight while providing reasonable safeguards to protect grant funds and reduce the risk of environmental damage to state waters resulting from inadequately treated wastewater being discharged to surface and ground water.

Under Minn. Stat. §116.16, subd. 11, the Minnesota Public Facilities Authority (Authority) assumed responsibility on July 1, 1988 for awarding grants and making payments under the state independent grants program, including the individual on-site wastewater treatment systems grants program. The Agency retains the responsibility for selecting the municipalities to receive grants and for reviewing and approving the projects and applications in accordance with Minn. Stat. §116.16 to §116.18 and Minn. Rules ch. 7075. The Authority will

award grants and make grant payments upon certification by the Agency. The provisions concerning grant awards and payments in the proposed rules are written to accommodate this transfer of responsibilities.

B. Reasonableness of Individual Rules

The following discussion addresses the specific provisions of the proposed rules.

Part 7075.1400 Purpose.

This part identifies that the individual on-site wastewater treatment grants program will be administered by these rules.

Part 7075.1410 Definitions.

The following terms used in the rules have a specific meaning. The terms and the reasonableness of the definitions are explained below.

Subpart 2. "Abatement notice". A method is needed to identify failed systems to establish eligibility. The Agency proposes that the municipality inspect local systems for conformance with the ordinance that adopts the requirements of Minn. Rules ch. 7080. Failure to conform with the ordinance will result in the issuance of a citation. It is reasonable to make the municipality responsible for this inspection because on-site systems are small, numerous, and privately owned. The notice must cite the specific violation. This allows the Agency to verify eligibility.

Subpart 3. "Agency." There are numerous references to the Minnesota Pollution Control Agency. It is appropriate to shorten this by definition.

Subpart 4. "Authority." There are numerous references to the Public Facilities Authority. It is appropriate to shorten this by definition.

Subpart 5. "Commissioner." It is appropriate to clarify that "commissioner" is the commissioner of the Minnesota Pollution Control Agency and not an official of the Authority or a local government official.

Subpart 6. "Construction cost." The definition identifies "construction cost" as materials, labor, overhead and profit necessary for installation of an individual system. The authorizing statute specifically excludes planning, engineering and administrative costs from eligibility. In developing the rules, sufficient questions were raised about what constitutes "construction cost" to indicate confusion. This definition will clarify cost eligibility under Part 7075.1460, subp. 1.

Subpart 7. "Designer." This personnel category is defined as specific to this program in order to limit applicability and effect.

Subpart 8. "Dwelling." The definition conforms with Minn. Rules ch. 7080 for consistency.

Subpart 9. "Failed system." A failed system is defined as one that has been issued an abatement notice by a municipality indicating that it is in violation of the ordinance adopting the requirements of Minn. Rules ch. 7080. The authorizing statute requires that grants be for systems that do not conform with Minn. Rules ch. 7080. Due to the nature of these systems, small and numerous, it is reasonable that the municipality be responsible for identifying failed systems.

Subpart 10. "Individual on-site wastewater treatment system." The definition conforms with Minn. Stat. §116.18, subd. 3c. Inclusion in the Rules enhances readability.

Subpart 11. "Inspector." This personnel category is defined as specific to this program in order to limit applicability and effect.

Subpart 12. "Installer." This personnel category is defined as specific to this program in order to limit applicability and effect.

Subpart 13. "Median household income." Income data is used for establishing eligibility and priority. For efficiency in a small grants program, it is reasonable to define median household income by utilizing an established data gathering system, the decennial census. Using the census also offers consistency of the data.

Subpart 14. "Mound system." The definition conforms with Minn. Rules ch. 7080 for consistency.

Subpart 15. "Municipality." The definition conforms with Minn. Stat. §116.16 for consistency.

Subpart 16. "Other establishment." The definition conforms with Minn. Rules ch. 7080 for consistency.

Subpart 17. "Seasonal residence." A residence is seasonal if occupied less than 182 days per year. One hundred eighty-two days is a reasonable method of defining seasonal because it is less than one-half of a calendar year.

Subpart 18. "Site evaluator." This personnel category is defined as specific to this program in order to limit applicability and effect.

Subpart 19. "Trench or bed system." The definition conforms with Minn. Rules ch. 7080 for consistency.

Part 7075.1420 Eligibility.

Subpart 1. "Municipality eligibility." Eligibility of the applying municipality is limited by the five criteria.

Item A. A municipality must be authorized by its governing body to submit the application. It is reasonable for the Agency to require an official and public commitment from the municipality prior to reviewing an application. The process culminates in a legal document, the grant agreement, that requires a responsible party.

Item B. A municipality must develop and adopt a wastewater treatment plan. Developing and adopting a comprehensive plan, that includes identifying needs and proposing solutions, has historically been an eligibility criteria for wastewater treatment construction grants programs. The Agency continues to use this criteria in order to direct the funding to municipalities with a demonstrated need and a proposal to remedy that need.

Item C. The municipality must enact an ordinance that adopts and enforces the requirements of Minn. Rules ch. 7080, the state design standard for individual sewage treatment systems. The authorizing statute requires that the municipality "has adopted and is enforcing the requirements of Minnesota Rules governing individual sewage treatment systems."

Item D. The municipality must enact an ordinance that establishes a maintenance plan for systems in its jurisdiction. The municipality has latitude in establishing a maintenance plan that fits its local needs. The Agency's intent is to protect the systems that receive grant funding. In addition, a large proportion of on-site system failures are due to inadequate maintenance. It is reasonable to require a municipality seeking funding under this program to develop and administer a maintenance plan for the long term success of individual on-site wastewater treatment in its jurisdiction.

Item E. The municipalities must have a median household income less than the state median household income. The income level threshold is proposed because of the limited amount of funding available. On-site treatment systems that have failed in the past have most often been replaced or upgraded at the owner's expense. The systems that are not replaced or upgraded are the systems where the owners lack financial resources. One method to apply a financial need eligibility threshold is to look at each individual owner's financial resources. Due to the number of individual systems, the Agency does not have the resources

to do this type of analysis. The median household income of the municipality as a method for determining financial need does not require a substantial investment of Agency resources. At the same time, it does give a reasonably accurate picture of the potential community resources for addressing wastewater treatment needs.

Some governmental subdivisions which meet the definition of a municipality in Part 7075.1410, subpart 15 may not be identified as a separate entity in the census. In these cases, the proposed rules allow the municipality to submit alternative data for the purpose of determining the median household income.

Subpart 2. Individual system eligibility. The systems to be funded under this program must meet four criteria.

Item A. The system must have failed. The failed determination is a method of establishing need related to water quality.

Items B to D. Under the authorizing statute, eligibility is limited to systems constructed before January 1, 1977, systems not serving seasonal residences, and systems not constructed with state or federal funds.

In addition, the statutory limitation, "systems not constructed with state or federal funds," could be interpreted to include funding from federal and state programs for other than wastewater treatment purposes, such as home mortgage financing through the Federal Housing Authority (FHA). Therefore, an owner who had received an FHA mortgage could not participate in this program. This type of exclusion was not the legislative intent and the rules clarify this by limiting by the type of state or federal funds to water pollution control funds.

Subpart 3. Previous funding. The rules limit eligibility to systems located in geographic areas that have not previously received planning consideration and grant funding. The Agency's other wastewater treatment grants programs, state and federal, require that a municipality define a wastewater

treatment need and a solution at a single point in time. The Agency intent, consistent with the U.S. Environmental Protection Agency's regulations applicable to federal funding, is to bring the municipality to a starting point, not to establish a revolving door program. In order to maintain equity between the wastewater treatment programs, that philosophy is applied to this program.

While individual systems fail independently as opposed to a centralized system failure, the municipality has the ability and is encouraged to establish an ongoing wastewater treatment management program that meets the community's needs. The municipality also has the ability to establish a rate ordinance to maintain a fund for maintenance and replacement of individual systems. The fund could be used, at the municipality's discretion, to continue a subsidy-type program for individual system owners.

Part 7075.1430 Wastewater Treatment Plan.

Subpart 1. General requirements. The municipality must develop a wastewater treatment plan as an eligibility requirement. See Statement of Reasonableness for Part 7075.1420, item B.

Subpart 2. Planning area. The planning area is the geographic area in the municipality's jurisdiction. Under the existing grants programs, the planning area is defined by using jurisdictional boundaries with the opportunity for proposing an alternative planning area. The existing federal and independent state grants programs operate similarly in determining planning areas. The provision to propose an alternative planning area provides the municipality with the ability to evaluate its specific wastewater treatment needs in conjunction with political and jurisdictional considerations that deserve consideration in order to have a viable wastewater treatment plan for the municipality.

Subpart 3. Plan contents.

Item A. A survey of the planning area is required. Identifying failed systems is a method of determining the municipality's wastewater treatment needs. A survey is a thorough and systematic approach. This method is currently used in the existing federal and independent state grants program when individual on-site wastewater treatment systems are being evaluated. Doing the survey at the local level and using the municipality's inspector, will help to reduce costs.

Item B. Site evaluations for the failed systems are required. In order for a designer to design a system to conform with Minn. Rules ch. 7080, a requirement of the authorizing statute, information from site evaluations and soil investigations must be available to the designer. Such information reveals whether it is feasible to upgrade or replace the system on-site and what type of system is appropriate.

Item C. An analysis of the municipality's overall wastewater treatment needs is required. This is a planning requirement that allows the municipality to determine whether individual on-site wastewater treatment technology is applicable.

Item D. A list of the failed systems is required. The Agency needs a list of specific systems as documentation to compare to invoices prior to payment. The information is also needed to determine the amount of grant to be set aside.

Item E. A proposal for addressing the wastewater treatment needs not eligible under this program is required. The Agency proposes that the municipality think about its overall wastewater treatment needs. This requirement encourages the municipality to approach its wastewater treatment needs comprehensively to provide some reasonable assurance that a long term plan is being developed.

Item F. Documentation of personnel approval, as required under Part 7075.1440, is appropriate to review with the associated work products to verify that this requirement has been met.

Subpart 4. Approval of plan. Adoption and enforcement of an ordinance that conforms with Chapter 7080 is a requirement of the authorizing statute. The Agency reviews and approves the part of the plan that relates to the ordinance. It is reasonable to ensure that the municipality's wastewater treatment plan conforms with the required ordinance.

Part 7075.1440 Approval of Individual On-site Wastewater Treatment Systems Personnel.

The Agency proposes to approve inspectors, site evaluators, designers, and installers who inspect, evaluate sites, design, and install individual on-site wastewater treatment systems under this program.

Subpart 1. General requirements. Approval of personnel is a method to provide reasonable assurance that the system will be designed, located and installed according to the standards and criteria in Minn. Rules ch. 7080. The approval is a reasonable method of protecting grant funds and reducing the risk of environmental damage and pollution to state waters. An alternative to this method is the Agency's direct oversite of the design and installation of individual systems. That method would involve a significant Agency administrative cost since the systems are small and numerous. Two options are available for obtaining approval.

Subpart 2. Approval criteria: option 1. Using an existing voluntary certification program as an option for approval of on-site personnel is an efficient in-place method of approval. Attachment 1 describes the certification program in detail.

Subpart 3. Approval criteria: option 2. The Agency offers an alternative to the certification program for on-site personnel not interested in obtaining formal certification but still interested in contracting with on-site system owners seeking reimbursement under this program. The alternative has two components.

Item A. Demonstration of knowledge is the basic component of an evaluation of professional ability. Testing is the most straightforward method of evaluating an applicant's knowledge. The exam is based on the Minn. Rules ch. 7080. The state developed comprehensive individual on-site design criteria in Chapter 7080 and proposes to use that source exclusively to avoid confusion for personnel preparing for the exam. Seventy percent correct on the exam is proposed as the minimum passing score. This percentage is used in the certification program under subpart 1. The Agency staff that administer the certification program maintain that a 70 percent correct score indicates adequate knowledge of on-site technology, and also, importantly, a familiarity with the Chapter 7080.

Item B. Experience in a professional field is a standard criteria for evaluating professional ability.

Subitems 1-4. The number of systems for each type of personnel is based on the Agency's estimate of the amount of recent on-site systems experience a professional needs to be familiar with on-site technology and methods. The rules proposed that affected personnel demonstrate experience by self certification. For the purposes of this smaller program, self certification is practical. The approval component of the program is not cumbersome for private business personnel, yet the Agency has written statement confirming experience.

Subpart 4. Notification of approval. The Agency will notify each applicant of whether they have received approval within 30 days of application. Applicants are entitled to a timely response. Thirty days allows the Agency to review the application thoroughly and prepare an official response. Applicants may reapply at any time because there is no reason to limit reapplication.

Subpart 5. Purpose of agency approval. The Agency's approval of personnel is limited to that which is necessary for the administration of this program. The rule provides notice that such approval does not alter the existing legal liability relationship established in the contract between the vendor and vendee under existing law.

Part 7075.1450 Application.

Subpart 1. Notice of taking applications. The initiation of the application cycle is established by the commissioner by public notification in the State Register. The application period remains open for a minimum of 90 days. This is sufficient time for a municipality to complete and submit an application.

Subpart 2. Application requirements. To allow the Agency to make a determination on an applicant's conformance with program requirements, information needs to be provided by the applicant.

The Agency will provide a form for each applicant to complete. The form will be a document that provides general information, such as the name of the applicant, the address, and the authorized representative for the municipality. The significant part of the application will be the information detailed in items A through H.

Items A - E. The municipality's authorizing resolution, the wastewater treatment plan, copies of ordinance that adopts the requirement of Minn. Rules ch. 7080 (On-site Design Criteria), maintenance ordinances, and

median income information directly correspond with the eligibility requirements. See Statement of Reasonableness for Part 7075.1420, subp. 1, items A - E. It is appropriate to verify eligibility at application time.

Item F. Individual owners must submit signed statements stating that their system meets certain requirements. These requirements are that the system was constructed before January 1, 1977, does not serve a seasonal residence, and was not constructed with state or federal water pollution control funds. These are eligibility requirements required by the authorizing statute. It is appropriate to verify eligibility at application time.

Item G. The municipality must submit a schedule for the estimated completion of construction of the funded systems and request for final payment. The Agency needs to make reasonable estimates as to when the grant monies will be disbursed.

Item H. The municipality must submit a statement that it has an inspector on staff or under contract for services. The Agency is requiring this because the authorizing statute requires enforcement of the requirements of Minn. Rules ch. 7080 as a condition of grant receipt. Also, historically, one of the problems with on-site wastewater treatment systems is that the provisions of Chapter 7080 have not been enforced, thereby contributing to failure of the systems. It is reasonable to require, with the application, an assurance that the municipality has the qualified personnel to enforce conformance with Chapter 7080. This will provide the Agency with a commitment from the municipality that the new systems being funded with grant money will be operated and maintained properly.

Subpart 3. Other information. The commissioner may require additional information from the municipality. After the information required in the application is submitted, it is sometimes necessary for the municipality to submit further information for clarification.

Subpart 4. Application closing date. The notice of taking applications will specify an application closing date no less than 90 days after the State Register publication date. During the application period (90 days), the municipality must prepare its application, the major work component being the wastewater treatment plan. The Agency maintains that for the smaller communities, the main participants in this program, the plan can be developed in 60 days. The planning requirements are limited to a local survey and an analysis.

Subpart 5. Incomplete applications. The commissioner may determine that an application does not contain the information required in Part 7075.1450, subps. 2 and 3. That application will be ineligible for funding during that funding cycle. Municipalities will have at least 90 days to complete the requirements. Any application that is submitted that does not have all the required information could impede the award process for the other applicants if the commissioner were to allow more time to complete the application.

Part 7075.1460 Eligible Costs.

Subpart 1. Eligible costs. Eligible costs are limited to costs of construction. The authorizing statute, by declaring planning, engineering, and administrative costs as ineligible, indicated that the Legislature was interested in funding only the actual installation or construction of the system.

Subpart 2. Ineligible costs. Non-construction costs are not eligible. For clarity, easily identified non-construction costs have been named in the rules. The ineligible costs are not limited to those named.

Subpart 3. Number of systems limitation. It is possible that a treatment site has a combination of systems such as a series of septic tanks. The rules propose limiting each site to a single reimbursement as a method of distributing the limited funds fairly among the applicants.

Subpart 4. Costs incurred before grant award. To allow construction and pollution abatement to proceed without delay, the rules allow costs to be incurred before award under certain conditions.

Items A - C. Conditions are imposed on the incurring of costs before award to allow the Agency to control elements of the program related to fiscal outlays. Development of a municipality plan, identification of a specific system and prompt submittal of an application are required. When allowing a grants program to reach back and fund costs already incurred, it is reasonable to establish requirements that limit the reach to an identifiable universe. Otherwise, the Agency would have limited control on the program's funding liabilities.

Part 7075.1470 Amount of the Grant Award.

Subpart 1. Grant amount. The grant amount is 50 percent of eligible costs. The grant percentage is directed by the authorizing statute. A cap of $2,500 (50 percent of $5,000 eligible costs) per trench or bed system, and $3750 (50 percent of $7,500 eligible costs) per mound system is proposed. The cost cap is a reasonable method of distributing limited funds more widely. Discussion with the Technical Advisory Committee supported the Agency's position that $5,000 per trench or bed system, and $7,500 per mound system will adequately cover the average cost of these systems. The Technical Advisory Committee maintained that average costs statewide are less than the maximum amounts.

Subpart 2. Partial awards. This provision allows the municipality to proceed with its project with an assurance from the Agency of funding for the remainder of the project if funding is legislatively allocated.

Part 7075.1480 Priority Ranking.

Eligible applicants are ranked according to the municipality's median household income. Unsewered communities are not necessarily on the municipal

needs list, the priority list used for the Agency's traditional grants programs. Therefore, it is necessary to establish a separate priority system. Agency experience in the area of individual on-site treatment systems indicates that poorer communities are less likely than fiscally stable communities to proceed with replacement and upgrade of on-site systems. An assessment of financial need is an appropriate method of allocating limited state assistance funds.

Part 7075.1490 Certification of Award.

Subpart 1. Funding list. The Commissioner prepares a funding list of projects that have met the eligibility criteria under this program. The Commissioner has the responsibility to review the documents required for submittal with the application to evaluate conformance with the statute and rules. It is only after the review of these documents has been completed that a list can be prepared. The creation of the funding list provides the means of implementing public participation.

Subpart 2. Public participation. The rules provide for public participation concerning the funding list to give affected persons the opportunity to formally comment on the Agency's actions. The funding list will be available to the public and notices will be sent to affected municipalities 45 days before adoption of the list. A forty-five day notification period is what the Agency has used under the existing federal and independent states grants programs, allowing an adequate period to comment that also meets the Agency's monthly meeting schedule. That length of time has proved to be sufficient for public comment. Interested parties may present oral comments to the Board, or may submit written comments. Written comments need to be submitted 5 days before the Board meeting to allow Agency staff to copy and distribute the information.

Subpart 3. Certification to authority. The Commissioner's statutory responsibility is to determine which applicants receive grants and the amount of the grant. The Commissioner then certifies to the Public Facilities Authority the list of grantees and grant amounts.

Part 7075.1500 Payment Conditions.

A requirement of the program is use of approved personnel. See Part 7075.1440, subp. 1. It is reasonable to establish the approved personnel requirement as a condition of payment. This requirement cannot be reviewed at application time since the majority of the work will be done after the award.

Part 7075.1510 Payments.

Subpart 1. Request for payment. The payment request informs the Agency staff that the grantee is requesting payment. The Commissioner will then make the determination on whether all grant and payment conditions have been satisfied.

Subpart 2. Schedule of payment. Payments may be requested on a monthly basis as construction of each individual system is completed and approved by the inspector. It is reasonable to disburse monthly payments because each owner will be completing construction of their individual system separate from the other owners.

Subpart 3. Documentation of eligible costs. Documentation is a standard procedure before payment to safeguard public funds.

Item A. Invoices are required. The documentation required is related to Part 7075.1460, subp. 1. The grant to the municipality is based on an estimated cost. Actual costs may be less than the estimated amount and the grant may need adjustment.

Items B - D. Documentation of the use of approved personnel is required. The documentation required is based on Part 1500, payment conditions.

Subpart 4. Certification of payment. The commissioner will make a determination whether the grantee qualifies for payment. If the payment cannot be made due to deficiencies in the required documents, the Commissioner will notify the grantee so that the deficiencies can be corrected and payment then made.

Part 7075.1520 Termination of Grant.

Failure to comply with the municipality's comprehensive construction schedule for completion of all work, constitutes grounds to recommend termination of the grant. This is reasonable because it is important that the limited amount of grant funds be obligated only to municipalities that are satisfactorily meeting the grant agreement conditions. After the grant is terminated, the money will then be available to municipalities that are prepared to move forward with their projects.

Part 7075.1530 Subsequent Grants.

A municipality that receives an individual on-site wastewater treatment systems grant is ineligible to receive funding from the federal construction grants program or the independent state grants program. The municipality is also prohibited from returning to the individual on-site wastewater treatment grants program for a second grant. The exclusion is consistent with the prohibitions against subsequent grants for our existing grants program (Minn. Stat. 116.16, subd. 9a (1986)). A one time only provision allows the pool of wastewater treatment funding in the state to be distributed to municipalities that have not received grant assistance for wastewater treatment. This is consistent with the program philosophy set forth in Part 7075.1420, subp. 3 addressing previous funding. The limited funding makes a revolving door program undesirable.

An exception to this part is when the municipality identifies wastewater treatment needs in a geographic area that was not originally considered in its

planning area. An example is a county that sponsors a segment of the geographic areas under its jurisdiction for participation in this program. The county could subsequently sponsor a different geographic area for grant application. The county could not apply for a second grant for any of the same geographic area that had received a grant, even if there were new treatment needs.

V. SMALL BUSINESS CONSIDERATIONS IN RULEMAKING

Minn. Stat., §14.115, subd. 2 (1986) requires the Agency, when proposing rules which may affect small businesses, to consider the methods for reducing the impact on small businesses. Minn. Stat., §14.115, subd. 7(b) (1986) provides that Agency rules that do not affect small businesses directly, including rules relating to municipal administration of state programs, are exempted from the small business consideration provision. These rules fall under subd. 7(b) and are exempted from small business considerations. However, the Agency is satisfied that small businesses will not be adversely affected by the provisions of this program.

VI. CONSIDERATION OF ECONOMIC FACTORS

In exercising its powers, the Agency is required by Minn. Stat., §116.07, subd. 6 (1986) to give due consideration to economic factors. The statute provides:

> In exercising all its powers the pollution control agency shall give due consideration to the establishment, maintenance, operation and expansion of business, commerce, trade, industry, traffic, and other economic factors and other material matters affecting the feasibility and practicability of any proposed action, including, but not limited to, the burden on a municipality of any tax which may result therefrom, and shall take or provide for such action as may be reasonable, feasible, and practical under the circumstances.

In proposing the rules governing the individual on-site wastewater treatment systems grants program, the Agency has given due consideration to any economic impacts of the proposed rules. This is a voluntary program so will not

have any affect on municipalities that do not elect to participate. Data on the effectiveness, both environmentally and economically, of the new program will be gathered and analyzed by the Agency for the legislature after the program is operating. The Agency assumes that funding a portion of the cost of upgrading or replacing systems will be a benefit to the industries and businesses that service that need. The assumption is that demand will increase when funding is available to owners who delayed or abandoned repair or replacement due to financial inability.

VII. OTHER FACTORS

Pursuant to Minn. Stat. § 14.11, subd. 1 (1986), the Agency must provide an estimate of the public monies associated with implementing these rules if it is estimated that the total cost to all local public bodies exceeds $100,000 in either of the first two years following adoption of the rules. When a program is voluntary it is not necessary to access the costs to local public bodies that choose to participate. It is assumed that public body will make a cost/benefit assessment at the local level as part of its decision-making process prior to application. The local body is not required by statute or administrative rule to incur costs.

In any case, the administrative costs to the municipalities that sponsor individual owners for application to the program are difficult to determine. Reimbursement for administrative costs is specifically prohibited by the authorizing statute. The Agency estimates that a $1,000,000 program for reimbursement of construction costs will not generate a ten percent ($100,000) administrative cost for participating local bodies. The sponsoring municipalities will need to prepare an application, develop a wastewater treatment plan and an individual on-site wastewater treatment systems maintenance plan, and develop and maintain an accounting system for disbursement of funds to the owners of the systems.

Minn. Stat. § 17.83 (1986) requires the Agency to describe any direct and substantial adverse effects on agricultural land. The Agency has determined that these rules will have no such effects.

VIII. CONCLUSION

Based on the foregoing, the proposed Minnesota Rules parts 7075.1400 through 7075.1530 are both needed and reasonable.

Dated: July 15, 1988

for Barbara Lindsey Sims
Gerald L. Willet
Commissioner

Register to the Minnesota Department of Veterans Affairs by 4:30 p.m. on September 2 will also be accepted by the Department of Human Services.

Metropolitan Council of the Twin Cities Area

Notice of Preliminary Review Schedule for Revision to the Water Resources Management, Part 1, Policy Plan of the Metropolitan Development Guide

The Metropolitan Council is revising its plan for regional sewer service and treatment. Revisions are necessitated by the need to address service and treatment requirements to meet the demand from forecasted growth in households and employment through the year 2000 and 2010, and concerns over water quality management. Additionally, the legislature has provided new direction regarding the responsibilities of the Council and the Metropolitan Waste Control Commission (MWCC). In accordance with Council procedures for revising regional system plans, the following tentative schedule is proposed:

Oct. 27, 1987	Metropolitan Systems Committee adopts the draft document.
Nov. 12, 1987	Metropolitan Council adopts draft document for transmittal to the Metropolitan Waste Control Commission for a 90-day review.
Feb. 23, 1988	Metropolitan Systems Committee adopts draft document for public hearing purposes.
March 10, 1988	Metropolitan Council adopts draft document for public hearing purposes and sets public hearing date.
April 12, 1988	Public hearing.
May 17, 1988	Metropolitan Systems Committee considers the revised policy plan for adoption.
May 26, 1988	Council adopts the plan.

A "notice of public hearing" will be published. If you have questions regarding the schedule or the draft sewer policy plan, call Carl Schenk of the Council's Natural Resources Program at 291-6410.

Pollution Control Agency

Division of Water Quality

Outside Opinion Sought Concerning Revisions to Rules Governing Award of State and Federal Grants and Loans for Municipal Wastewater Treatment Facilities

Notice is hereby given that the Minnesota Pollution Control Agency is seeking information or opinions from sources outside the Agency in preparing to promulgate emergency and permanent rules governing state and federal grant and loan programs for the construction of municipal wastewater treatment facilities.

Minnesota Rules Chapter 7075 governs the award of federal and state grants and loans for the planning and construction of publicly owned wastewater treatment facilities. The rules will be revised to provide for administration of the following grant and loan programs:

1. Grants to assist municipalities seeking privatization of their municipal wastewater treatment facilities. See *Minnesota Laws 1987*, Chapter 277, Section 1.

2. Grants to reimburse owners of individual on-site wastewater treatment systems for a part of the costs of upgrading or replacing the systems. See *Minnesota Laws 1987*, Chapter 277, Section 2.

3. Grants to assist municipalities in taking corrective action to upgrade or correct wastewater treatment facilities, funded under the federal or state grants programs, that have failed to meet performance standards. See *Minnesota Laws 1987*, Chapter 277, Section 3.

4. Loans for the construction of wastewater treatment facilities, as authorized by Congress in Public Law 100-4. See *Minnesota Laws 1987*, Chapter 386, Art. 3, Section 24, Subdivision 11.

Minnesota Laws 1987, Chapter 386, Art. 3, Section 3 provides that cities with populations of less than 1500 that are funded under the independent state grants program may be exempted from federal 20-year planning requirements contained in 33 USC 1251 et. seq. (Clean Water Act). *Minnesota Rules* Chapter 7075 will be revised to include guidelines governing such exemptions.

In addition, revisions to existing rules are proposed. These include changes in the deadline dates for submittal of technical doc-

uments prior to listing a municipality on the Municipal Project List, and changes to the procedures for drafting the Municipal Project List. See *Minnesota Rules* Part 7075.0409.

Promulgation of permanent rules is authorized by the above cited Minnesota Laws and by *Minnesota Statutes*, section 116.16, subdivision 5. Promulgation of emergency rules for the corrective action grants program (Number 3 above) is authorized by *Minnesota Laws 1987*, Chapter 277, Section 3.

The Minnesota Pollution Control Agency requests information and comments concerning the subject of these rules. Interested or affected persons or groups may submit statements of information or comments orally or in writing. Written statements should be addressed to:

Sharon Meyer
Division of Water Quality
Minnesota Pollution Control Agency
520 Lafayette Road
St. Paul, Minnesota 55155

Oral statements of information and comment will be received over the telephone at (612) 296-8744 between the hours of 9:00 a.m. and 4:00 p.m.

All statements of information and comments regarding emergency rules relating to corrective action grants should be submitted by September 22, 1987. All statements of information and comments regarding permanent rules should be submitted by November 30, 1987. All written material received by the Minnesota Pollution Control Agency before the above deadlines will become a part of any rule file that is established in the event that the rules are proposed for adoption.

Department of Public Safety

Meeting Notice for a Pipeline Safety—Statewide Notification Center

In compliance with the Minnesota Pipeline Safety Act, *Minnesota Laws 1987*, Chapter 353, Section 9, the Commissioner of the Minnesota Department of Public Safety hereby notifies all operators, excavators and other persons eligible to participate of the first organizational meeting to establish a statewide notification center operated by a non-profit corporation to provide information regarding pipeline locations.

The meeting will be held on August 19, 1987 at 9:00 a.m. in the Minnegasco Auditorium, Minnegasco Headquarters Building, 201 South Seventh Street, Minneapolis, Minnesota.

Paul J. Tschida, Commissioner
Minnesota Department of Public Safety

Minnesota State Retirement System

Board of Directors, Regular Meeting

A meeting of the Board of Directors, Minnesota State Retirement System will be held on Friday, August 21, 1987 at 8:30 a.m. in the office of the System, 529 Jackson Street, St. Paul, Minnesota.

Department of Transportation

Petition of the County of Nicollet for a Variance from State Aid Standards for Roadway Design Criteria

Notice is hereby given that the County Board of the County of Nicollet has made a written request to the Commissioner of Transportation pursuant to *Minnesota Rules* § 8820.3300 for a variance from minimum standards for a construction (regrading) project on CSAH 4 from CSAH 5 to CSAH 1 (6.5 Miles).

The request is for a variance from *Minnesota Rules* for State Aid Operations § 8820.9910 adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, so as to permit an interim 32′ wide roadway with a gravel surface instead of the required surfacing and width necessary to provide a 7 ton ultimate 9 ton roadway.

CERTIFICATE OF AGENCY'S AUTHORIZING RESOLUTION

I, Gerald L. Willet, do hereby certify that I am the Commissioner of the Minnesota Pollution Control Agency, an agency duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Minnesota Pollution Control Agency duly and properly called and held on the 26th day of July, 1988, that a quorum was present at said meeting, that a majority of those present voted for the resolution and that said resolution will be set forth in the minutes of said meeting and has not been rescinded or modified:

> BE IT RESOLVED, that the Commissioner of the Minnesota Pollution Control Agency (Agency) is hereby granted the authority to sign and to give notice of the Agency's intent to adopt, without a public hearing, the attached amendments to rules governing the administration of the individual on-site wastewater treatment systems grants program, Minn. Rules Parts 7075.1400 to 7075.1530, to all persons who have registered their names with the Agency for that purpose and publish the notice and the rules in the State Register, and to perform any acts incidental thereto, including making any form changes in the rules that the Revisor of Statutes requires the Agency to make in order to obtain the Revisor's certification as required by Minn. Stat. § 14.07, subd. 2 (1986).
>
> BE IT FURTHER RESOLVED, that in the event a public hearing becomes necessary, the Commissioner is hereby granted the authority and directed to call a hearing for the purpose of promulgating said rules as well as to perform any and all acts incidental thereto, including but not limited to signing an Order and Notice for Hearing, as well as acting as the MPCA's representative at all hearings.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 1 day of August, 1988.

Gerald L. Willet

Gerald L. Willet
Commissioner

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rules Governing the Administration of the Individual On-site Wastewater Treatment Grants Program for Municipal Wastewater Treatment Projects, Minnesota Rules Chapter 7075.1400 to 7075.1530

AFFIDAVIT OF MAILING THE NOTICE OF INTENT TO ADOPT RULE WITHOUT A PUBLIC HEARING AND CERTIFICATE OF MAILING LIST

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Jeanne Eggleston, being duly sworn says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minn. Stat. §§ 14.14, subd. 1a and 14.22 (1986) that their names be placed on the Minnesota Pollution Control Agency's rulemaking mailing list is accurate, complete, and current as of this 2nd day of August, 1988.

That on the 4th day of August, 1988, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt Rules Without a Public Hearing by depositing in the State of Minnesota Central Mail System or in the United States mail for first class mailing a copy thereof, with postage prepaid, to all persons and associations on the aforementioned mailing list.

Jeanne Eggleston

Subscribed and sworn to before me this 25 day of Aug, 1988.

Ardith M. Vos
Notary Public

ARDITH M. VOS
NOTARY PUBLIC — MINNESOTA
ANOKA COUNTY
My commission expires 1-12-94

III. FIRST YEAR VALUES

This policy should be purchased only for long-term planning. The values shown below assume the illustrated dividend or other nonguaranteed payment and the illustrated premiums are paid.

A. Amount of first year premium $_____

B. Guaranteed cash value, end of first year $_____

C. Dividend or other nonguaranteed payment, end of first year $_____

D. The amount you will receive if you surrender at the end of the first year (III-B plus III-C) $_____

_____ Signature of Agent
Date: ____ / ____ / ____

_____ Signature of Applicant
Date: ____ / ____ / ____

2790.1751 INTEREST RATE DISCLOSURE; CERTAIN GROUP CONTRACTS OR POLICIES.

Subpart 1. **Definition.** "Code" as used in this part means the United States Internal Revenue Code of 1986, as amended through December 31, 1987.

Subp. 2. **Exemption.** *Minnesota Statutes,* section 45.025, subdivisions 2 and 5, do not apply to:

A. a group annuity contract or policy that is issued to an employer or trustee to fund an employee pension or retirement plan which is a plan described in sections 401, 403, 408(c), or 457(b) of the Internal Revenue Code, or to an employer described in section 501(c)(3) of the Internal Revenue Code to fund a pension or retirement plan; or

B. a group life insurance or group health insurance contract or policy issued to an employer, association of employees, or trustee to provide life insurance, health insurance, or disability benefits under an employee benefit plan; provided that the plan described in this item or item A has assets of at least $1,000,000 as of the date that the contract or policy is issued.

Rules as Proposed

2790.2200 PENALTY.

Violations of this chapter subject the violator to the penalties described in *Minnesota Statutes,* chapters 45, 60A, and 62A.

REPEALER. *Minnesota Rules,* part 2790.0200, is repealed.

Pollution Control Agency

Proposed Permanent Rules Relating to Individual On-Site Wastewater Treatment Grants

Notice of Intent to Adopt Rules Without a Public Hearing

Notice is hereby given that the Minnesota Pollution Control Agency (Agency) intends to adopt the above-entitled rules without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes* §§ 14.22 to 14.28 (1986). The Agency's authority to adopt the rule is set forth in *Minnesota Statutes* § 116.18, Subd. 3c(f) (Supp. 1987).

All persons have until 4:30 p.m. on September 15, 1988, to submit comments in support of or in opposition to the proposed rules or any part or subpart of the rules. Comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rules within the comment period. If 25 or more persons submit a written request for a public hearing within the comment period, a public hearing will be held unless a sufficient number withdraw their requests in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any change proposed. If a public hearing is required, the Agency will proceed pursuant to *Minnesota Statutes* §§ 14.131 to 14.20 (1986).

Comments or written requests for a public hearing must be submitted to:

Jeanne Eggleston
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155
(612) 296-7223

The proposed rules may be modified if the modifications are supported by data and views submitted to the Agency and do not result in a substantial change in the proposed rules as noticed.

The proposed rules, if adopted, will create an individual on-site wastewater treatment systems grants program. The program will make grants available to municipalities to assist owners of individual on-site wastewater treatment systems to upgrade or replace their failed systems. The proposed rules are published below. One free copy of the rules is available upon request from Ms. Eggleston at the address and telephone number stated above.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from Ms. Eggleston upon request.

You are hereby advised, pursuant to *Minnesota Statutes* § 14.115 (1986), "Small business considerations in rulemaking," that the proposed rules will have no direct effect on small businesses.

In addition, you are hereby advised, pursuant to *Minnesota Statutes* § 14.11 (1986), that none of the cost to local public bodies to construct wastewater treatment facilities is directly attributable to these rules.

Finally, you are hereby advised, pursuant to *Minnesota Statutes* § 17.83 (1986), that the MPCA has determined that these rules will not have an adverse effect on agricultural land.

If no hearing is required, upon adoption of the rules, the rules and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the rules as adopted, must submit a written request to Ms. Eggleston.

Gerald L. Willet
Commissioner

Rules as Proposed (all new material)

INDIVIDUAL ON-SITE WASTEWATER TREATMENT SYSTEMS GRANTS PROGRAM

7075.1400 PURPOSE.

Parts 7075.1400 to 7075.1530 provide for the administration of the individual on-site wastewater treatment systems grants program that makes grants available to municipalities to assist owners of individual on-site wastewater treatment systems to upgrade or replace their failed individual on-site wastewater treatment systems.

7075.1410 DEFINITIONS.

Subpart 1. **Scope.** For the purpose of parts 7075.1400 to 7075.1530 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 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. 3. **Agency.** "Agency" means the Minnesota Pollution Control Agency.

Subp. 4. **Authority.** "Authority" means the Minnesota Public Facilities Authority.

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

Subp. 6. **Construction cost.** "Construction cost" means the cost of the materials, labor, overhead, and profit necessary for instal-

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lation, construction, and repair of an individual 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 individual on-site wastewater treatment systems, and has received agency approval under part 7075.1440.

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

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

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 or two dwellings or other establishments, that uses subsurface soil treatment and disposal.

Subp. 11. **Inspector.** "Inspector" means a person employed by or under contract to the municipality who inspects individual on-site wastewater treatment systems for conformance with the ordinance that adopts the requirements of chapter 7080, and has received agency approval under part 7075.1440.

Subp. 12. **Installer.** "Installer" means a person who constructs or repairs individual on-site wastewater treatment systems, and has received agency approval under part 7075.1440.

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.

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

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

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

Subp. 17. **Seasonal residence.** "Seasonal residence" means a dwelling used for less than 182 days of a calendar year by a single family or household. Second homes, vacation residences, and recreation residences are included in this definition.

Subp. 18. **Site evaluator.** "Site evaluator" means a person who investigates soils and site characteristics, does soil borings or percolation tests for use in designing individual on-site wastewater treatment systems, and has received agency approval under part 7075.1440.

Subp. 19. **Trench or bed system.** "Trench or bed system" means an individual 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.

7075.1420 ELIGIBILITY.

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

A. be authorized by its governing body to assume responsibility for the grant application and related documents for owners of individual on-site wastewater treatment systems who are in its jurisdiction and included in the planning area under part 7075.1430, subpart 2;

B. have developed and adopted a wastewater treatment plan under part 7075.1430;

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

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

E. have a median household income that is less than the state median household income. Municipalities not included in the decennial census shall submit an alternate median household income figure for their municipality, supported by complete income data and a computation methodology. If the data is complete and the computation methodology is equivalent to the decennial census, the alternate median household income will be approved by the commissioner.

Subp. 2. **Individual system eligibility.** The individual systems to be replaced or upgraded included in the municipality's grant application 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; and

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

Subp. 3. **Previous funding.** Individual 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 part.

7075.1430 WASTEWATER TREATMENT PLAN.

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

Subp. 2. **Planning area.** The planning area is the entire geographic area in the municipality's jurisdiction unless the municipality submits an alternative proposal at the time of application. Alternative proposals must be approved by the commissioner and will be evaluated based on housing density, water quality impact, and public health impact.

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

A. a planning area survey prepared by an inspector that identifies failed systems;

B. site evaluations, including soil investigations, for the failed systems prepared by a site evaluator or site evaluators to determine if it is feasible to replace or upgrade systems on site;

C. an analysis of the overall wastewater treatment needs in the municipality prepared by a designer using data from a site evaluator or site evaluators;

D. a list of the specific failed individual on-site wastewater treatment systems, including addresses and names of property owners requesting grant funds and copies of the abatement notices;

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

F. documentation of approval of the inspector, site evaluator or site evaluators, and designer under part 7075.1440.

Subp. 4. **Approval of plan.** The commissioner will review the parts of the plan submitted under subpart 3, items B and C, and approve them if they are in conformance with chapter 7080.

7075.1440 APPROVAL OF INDIVIDUAL ON-SITE WASTEWATER TREATMENT PERSONNEL.

Subpart 1. **General requirement.** For the purposes of parts 7075.1400 to 7075.1530, inspectors, site evaluators, designers, and installers who inspect, evaluate sites for, design, and install individual 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.

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.

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

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

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(1) An inspector must submit a list of individual 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 individual 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 individual 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 individual 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.

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

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

7075.1450 APPLICATION.

Subpart 1. **Notice of taking applications.** The commissioner will request the authority to publish in the State Register a notice that applications for individual on-site wastewater treatment grants will be accepted by the authority. The application closing date will be established by the commissioner, and will be no less than 90 days after the publication date.

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

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

B. the wastewater treatment plan prepared under part 7075.1430;

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

D. a copy of the ordinance establishing a maintenance plan under part 7075.1420, item D;

E. alternative median household income data under part 7075.1420, item E, for municipalities not included in the decennial census;

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

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

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

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

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

H. a statement from the municipality that it has an inspector on staff or under contract for services, including documentation of approval under part 7075.1440.

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

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

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

7075.1460 ELIGIBLE COSTS.

Subpart 1. **Eligible costs.** Only the actual construction costs of upgrading or replacing failed individual on-site wastewater treatment systems that have been identified under part 7075.1430, subpart 3, item D, are eligible.

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

Subp. 3. **Number of systems limitation.** The eligibility of costs for a treatment site is limited to either a trench or bed system or a mound system under part 7075.1470, subpart 1.

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 municipality has developed and adopted a wastewater treatment plan as described in part 7075.1430 before construction costs are incurred by the owner of the individual system;

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

C. the municipality submits a complete and timely application, during the first noticed application period under part 7075.1450, subpart 1, following the adoption of the wastewater treatment plan.

7075.1470 AMOUNT OF THE GRANT AWARD.

Subpart 1. **Grant amount.** The amount of the grant will be 50 percent of the actual eligible costs under part 7075.1460 up to a maximum grant of $2,500 per trench or bed system and $3,750 per mound system.

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.

7075.1480 PRIORITY RANKING.

Municipalities that meet the requirements of parts 7075.1420 to 7075.1450 will be ranked for funding priority from lowest median household income to highest median household income, with the lowest median household income receiving the highest priority.

7075.1490 CERTIFICATION OF AWARD.

Subpart 1. **Funding list.** The commissioner will prepare a list of municipalities eligible to receive grant funding under this program.

Subp. 2. **Public participation.** The following provisions govern public participation:

A. The commissioner will prepare an individual on-site wastewater treatment systems grants funding list and make it available to the public at least 45 days before adoption. The commissioner shall mail a free copy of the proposal to any interested person upon request.

B. The commissioner will give affected municipalities at least 45 days notice of the agency board meeting at which the funding proposal will be acted upon.

C. Interested persons may present oral statements at the agency board meeting. The chair may place reasonable restrictions upon the time and manner in which oral comments are submitted. Written statements must be received by the agency board at least five days before the meeting.

Subp. 3. **Certification to authority.** The commissioner will certify to the authority the individual on-site wastewater treatment systems grants program funding list approved by the agency.

7075.1500 PAYMENT CONDITIONS.

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

A. The upgrade or replacement to the existing system must be designed by a designer using data from a site evaluator.

B. The upgrade or replacement to the existing system must be constructed by an installer.

C. The upgrade or replacement to the existing system must be inspected and approved by the inspector.

7075.1510 PAYMENTS.

Subpart 1. **Request for payments.** A municipality must submit payment requests to the commissioner on a form provided by the commissioner.

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

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

A. invoices documenting incurred construction costs;

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

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

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

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

7075.1520 TERMINATION OF GRANT.

Failure of the municipality to comply with the construction schedule contained in the grant agreement constitutes grounds for the commissioner to recommend that the authority terminate the grant.

7075.1530 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 7075.1430, subpart 2, in the awarded grant.

Department of Public Safety

Proposed Permanent Rules Relating to Deputy Registrars; Motor Vehicle Registration Fee; Reports and Deposits

Notice of Hearing

NOTICE IS HEREBY GIVEN that a public hearing will be held pursuant to *Minnesota Statutes* Section 14.14, Subd. 1a, in the above entitled matter in Room 200 of the State Office Building, 100 Constitution Avenue, St. Paul, MN, on October 4, 1988, commencing at 9:00 a.m., and continuing until all interested persons or groups have had an opportunity to be heard concerning adoption of the proposed rules by submitting either oral or written data, statements or arguments. The hearing will be conducted by Administrative Law Judge John L. Lunde, 5th Floor, Flour Exchange, 310 South Fourth Avenue, Minneapolis, MN 55415; telephone 341-7645. The rule hearing procedure is governed by *Minnesota Statutes* Sections 14.02 to 14.45 and 14.48 to 14.56 and by *Minnesota Rules* 1400.0200 to 1400.1200. Questions regarding procedure may be directed to the Administrative Law Judge at the above listed address.

As a result of the hearing process, the proposed rules may be modified. The department therefore strongly urges those who may potentially be affected by the substance of the proposed rules to participate in the hearing process. Written comments may be submitted without appearing at the hearing by mailing them to the Administrative Law Judge. Written material may be submitted and recorded in the hearing record for five working days after the public hearing ends. This comment period may be extended for a longer period not to exceed 20 calendar days if ordered by the Administrative Law Judge at the hearing. In addition, following the close of the initial comment period, interested persons and the agency will be allowed to submit responses to any new information submitted in the comments received during the initial comment period. The responses must be filed within three working days of the close of the initial comment period. Additional evidence may not be submitted during this three day period. Comments submitted into the record are available for review by the public during the comment period at the office of the Administrative Law Judge.

The department's authority to adopt the proposed rules is contained in *Minnesota Statutes*, sections 14.06 and 168.33. A copy of the proposed rules follow this notice.

Minnesota Statutes Ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in *Minnesota Statutes* Section 10A.01, Subd. 11, as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including his own travel expenses and membership dues, in any year, for

CERTIFICATE OF RESOLUTION ADOPTING RULES

I, Gerald L. Willet, do hereby certify that I am the Commissioner of the Minnesota Pollution Control Agency, an agency duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Minnesota Pollution Control Agency duly and properly called and held on the 25th day of October, 1988, that a quorum was present at said meeting, that a majority of those present voted for the resolution and that said resolution will be set forth in the minutes of said meeting and has not been rescinded or modified:

> BE IT RESOLVED, that the Minnesota Pollution Control Agency (Agency) hereby approves and adopts Minn. Rules pts 7075.1400 to 7075.1530 governing the administration of the Individual Onsite Wastewater Treatment Systems Grants Program as published in Volume 13, Number 7, State Register, pages 338-344 (August 15, 1988) pursuant to the authority vested in the Agency by Minn. Stat. § 116.18, subd. 3c(f) (Supp. 1987).
>
> BE IT FURTHER RESOLVED, that prior to publishing the rules as adopted in the State Register, the Commissioner is authorized to make any form changes in the rules that the Revisor of Statutes requires the Agency to make in order to obtain the Revisor's Certificate as required by Minn. Stat. § 14.28 (1986).
>
> BE IT FURTHER RESOLVED, that the Agency adopts the attached Findings of Fact, Conclusions, and Order Adopting Rules and that the Commissioner is hereby authorized to sign the above-mentioned document on behalf of the Agency and to the necessary acts to provide that the rule shall have the force and effect of law.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 26th day of October, 1988.

Gerald L. Willet
Commissioner

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rules Governing The Administration of the Individual Onsite Wastewater Treatment Systems Grants Program for Municipal Wastewater Treatment Projects, Minnesota Rules Parts 7075.1400 to 7075.1530

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULES

The above-entitled matter came on for decision before the Minnesota Pollution Control Agency (Agency) on the 25th day of October, 1988. After affording all interested persons the opportunity to present written and oral data, statements and arguments to the Agency, in accordance with statutory requirements regarding the adoption of noncontroversial rules, after considering all of the evidence adduced upon the records, files and proceedings herein, the Agency, being fully advised in the premises, hereby adopts the following Findings of Fact, Conclusions, and Order:

FINDINGS OF FACT

1. Notice of the Minnesota Pollution Control Agency's intent to adopt the above-entitled rules without a public hearing was published in the State Register on August 15, 1988 and was sent by mail to all persons on the list maintained by the Agency pursuant to Minn. Stat. §§ 14.14, subd. 1a and 14.22 (1986) on August 10, 1988.

2. The Statement of Need and Reasonableness was prepared prior to mailing and publication of the notice and was made available to the public.

3. All persons were given the opportunity to submit comments on the rules for 30 days after notice of proposed rulemaking. The 30 day comment period, as set out in the notice, expired on September 15, 1988.

4. No requests for public hearing were received during the comment period.

5. No requests for notice of submission to the Attorney General were received by the Agency.

6. During the comment period the Agency received no written comments.

7. The Agency adopts the Statement of Need and Reasonableness, in its entirety, as the factual basis for the proposed rules. The Agency hereby incorporates the Statement of Need and Reasonableness into these findings.

8. The above-captioned rule is needed and reasonable.

CONCLUSIONS

1. The Minnesota Pollution Control Agency duly acquired and has jurisdiction over this proceeding.

2. The Agency published and served due, timely, and adequate notice of the intent to adopt the rules without a public hearing.

3. All relevant legal and procedural requirements of statute and rules have been complied with.

ORDER

NOW, THEREFORE, IT IS ORDERED, that the attached Minn. Rules pts. 7075.1400 to 7075.1530 governing the administration of the Individual Onsite Wastewater Treatment Systems Grants Program are adopted pursuant to the authority vested in the Minnesota Pollution Control Agency by Minn. Stat. §116.18, subd. 3c(f) (Supp. 1987).

MINNESOTA POLLUTION CONTROL AGENCY

Dated: 11-10-88

Gerald L. Willet
Gerald L. Willet
Commissioner

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rules
Governing the Administration of the
Individual Onsite Wastewater Treatment
Systems Grants Program, Minn. Rules
Parts 7075.1400 to 7075.1530

DECLARATION OF COUNSEL

I, Beverly Conerton, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rules and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure Act and Minnesota Rules ch. 2010 have been followed. For Attorney General billing purposes, the four-digit docket client code is 0698.

Beverly Conerton
Special Assistant
Attorney General

Pollution Control Agency

Proposed Permanent Rules Relating to Individual On-Site Wastewater Treatment Grants.

Rules as Proposed (all new material)

INDIVIDUAL ON-SITE WASTEWATER TREATMENT SYSTEMS GRANTS PROGRAM

7075.1400 PURPOSE.

Parts 7075.1400 to 7075.1530 provide for the administration of the individual on-site wastewater treatment systems grants program that makes grants available to municipalities to assist owners of individual on-site wastewater treatment systems to upgrade or replace their failed individual on-site wastewater treatment systems.

7075.1410 DEFINITIONS.

Subpart 1. **Scope.** For the purpose of parts 7075.1400 to 7075.1530 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 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. 3. **Agency.** "Agency" means the Minnesota Pollution Control Agency.

Subp. 4. **Authority.** "Authority" means the Minnesota Public Facilities Authority.

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

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

Approved by Revisor DSN

system owner and a system installer.

Subp. 7. **Designer.** "Designer" means a person who designs individual on-site wastewater treatment systems, and has received agency approval under part 7075.1440.

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

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

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 or two dwellings or other establishments, that uses subsurface soil treatment and disposal.

Subp. 11. **Inspector.** "Inspector" means a person employed by or under contract to the municipality who inspects individual on-site wastewater treatment systems for conformance with the ordinance that adopts the requirements of chapter 7080, and has received agency approval under part 7075.1440.

Subp. 12. **Installer.** "Installer" means a person who constructs or repairs individual on-site wastewater treatment systems, and has received agency approval under part 7075.1440.

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.

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

Subp. 15. **Municipality.** "Municipality" means any county, city, town, the Metropolitan Waste Control Commission established in Minnesota Statutes, chapter 473, the Metropolitan Council when acting under that chapter, an Indian tribe or an

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authorized Indian tribal organization, or any other governmental subdivision of the state responsible by law for the prevention, control, and abatement of water pollution in any area of the state.

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

Subp. 17. **Seasonal residence.** "Seasonal residence" means a dwelling used for less than 182 days of a calendar year by a single family or household. Second homes, vacation residences, and recreation residences are included in this definition.

Subp. 18. **Site evaluator.** "Site evaluator" means a person who investigates soils and site characteristics, does soil borings or percolation tests for use in designing individual on-site wastewater treatment systems, and has received agency approval under part 7075.1440.

Subp. 19. **Trench or bed system.** "Trench or bed system" means an individual 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.

7075.1420 ELIGIBILITY.

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

A. be authorized by its governing body to assume responsibility for the grant application and related documents for owners of individual on-site wastewater treatment systems who are in its jurisdiction and included in the planning area under part 7075.1430, subpart 2;

B. have developed and adopted a wastewater treatment plan under part 7075.1430;

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

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

E. have a median household income that is less than the state median household income. Municipalities not included in the decennial census shall submit an alternate median household income figure for their municipality, supported by complete income data and a computation methodology. If the data is complete and the computation methodology is equivalent to the decennial census, the alternate median household income will be approved by the commissioner.

Subp. 2. **Individual system eligibility.** The individual systems to be replaced or upgraded included in the municipality's grant application 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; and

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

Subp. 3. **Previous funding.** Individual 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 part.

7075.1430 WASTEWATER TREATMENT PLAN.

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

Subp. 2. **Planning area.** The planning area is the entire geographic area in the municipality's jurisdiction unless the municipality submits an alternative proposal at the time of application. Alternative proposals must be approved by the commissioner and will be evaluated based on housing density,

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water quality impact, and public health impact.

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

A. a planning area survey prepared by an inspector that identifies failed systems;

B. site evaluations, including soil investigations, for the failed systems prepared by a site evaluator or site evaluators to determine if it is feasible to replace or upgrade systems on site;

C. an analysis of the overall wastewater treatment needs in the municipality prepared by a designer using data from a site evaluator or site evaluators;

D. a list of the specific failed individual on-site wastewater treatment systems, including addresses and names of property owners requesting grant funds and copies of the abatement notices;

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

F. documentation of approval of the inspector, site evaluator or site evaluators, and designer under part 7075.1440.

Subp. 4. **Approval of plan.** The commissioner will review the parts of the plan submitted under subpart 3, items B and C, and approve them if they are in conformance with chapter 7080.

7075.1440 APPROVAL OF INDIVIDUAL ON-SITE WASTEWATER TREATMENT PERSONNEL.

Subpart 1. **General requirement.** For the purposes of parts 7075.1400 to 7075.1530, inspectors, site evaluators, designers, and installers who inspect, evaluate sites for, design, and install individual 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

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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.

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.

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

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

(1) An inspector must submit a list of individual 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 individual 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 individual 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 individual on-site wastewater treatment systems constructed or repaired by the applicant in the past three years. The installer must

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certify that a minimum of ten systems listed were constructed or repaired according to the criteria in chapter 7080.

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

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

7075.1450 APPLICATION.

Subpart 1. **Notice of taking applications.** The commissioner will request the authority to publish in the State Register a notice that applications for individual on-site wastewater treatment grants will be accepted by the authority. The application closing date will be established by the commissioner, and will be no less than 90 days after the publication date.

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

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

B. the wastewater treatment plan prepared under part 7075.1430;

C. a copy of the ordinance that adopts the requirements of chapter 7080 and certification that the

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ordinance is being enforced;

D. a copy of the ordinance establishing a maintenance plan under part 7075.1420, item D;

E. alternative median household income data under part 7075.1420, item E, for municipalities not included in the decennial census;

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

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

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

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

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

H. a statement from the municipality that it has an inspector on staff or under contract for services, including documentation of approval under part 7075.1440.

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

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

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

7075.1460 ELIGIBLE COSTS.

Subpart 1. **Eligible costs.** Only the actual construction costs of upgrading or replacing failed individual on-site

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wastewater treatment systems that have been identified under part 7075.1430, subpart 3, item D, are eligible.

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

Subp. 3. **Number of systems limitation.** The eligibility of costs for a treatment site is limited to either a trench or bed system or a mound system under part 7075.1470, subpart 1.

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 municipality has developed and adopted a wastewater treatment plan as described in part 7075.1430 before construction costs are incurred by the owner of the individual system;

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

C. the municipality submits a complete and timely application, during the first noticed application period under part 7075.1450, subpart 1, following the adoption of the wastewater treatment plan.

7075.1470 AMOUNT OF THE GRANT AWARD.

Subpart 1. **Grant amount.** The amount of the grant will be 50 percent of the actual eligible costs under part 7075.1460 up to a maximum grant of $2,500 per trench or bed system and $3,750 per mound system.

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.

7075.1480 PRIORITY RANKING.

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Municipalities that meet the requirements of parts 7075.1420 to 7075.1450 will be ranked for funding priority from lowest median household income to highest median household income, with the lowest median household income receiving the highest priority.

7075.1490 CERTIFICATION OF AWARD.

Subpart 1. **Funding list.** The commissioner will prepare a list of municipalities eligible to receive grant funding under this program.

Subp. 2. **Public participation.** The following provisions govern public participation:

A. The commissioner will prepare an individual on-site wastewater treatment systems grants funding list and make it available to the public at least 45 days before adoption. The commissioner shall mail a free copy of the proposal to any interested person upon request.

B. The commissioner will give affected municipalities at least 45 days notice of the agency board meeting at which the funding proposal will be acted upon.

C. Interested persons may present oral statements at the agency board meeting. The chair may place reasonable restrictions upon the time and manner in which oral comments are submitted. Written statements must be received by the agency board at least five days before the meeting.

Subp. 3. **Certification to authority.** The commissioner will certify to the authority the individual on-site wastewater treatment systems grants program funding list approved by the agency.

7075.1500 PAYMENT CONDITIONS.

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

A. The upgrade or replacement to the existing system must be designed by a designer using data from a site evaluator.

B. The upgrade or replacement to the existing system must be constructed by an installer.

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C. The upgrade or replacement to the existing system must be inspected and approved by the inspector.

7075.1510 PAYMENTS.

Subpart 1. **Request for payments.** A municipality must submit payment requests to the commissioner on a form provided by the commissioner.

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

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

A. invoices documenting incurred construction costs;

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

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

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

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

7075.1520 TERMINATION OF GRANT.

Failure of the municipality to comply with the construction schedule contained in the grant agreement constitutes grounds for the commissioner to recommend that the authority terminate the grant.

7075.1530 SUBSEQUENT GRANTS.

A municipality awarded a grant from the individual on-site

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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 7075.1430, subpart 2, in the awarded grant.

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Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Individual On-Site Wastewater Treatment Grants

AGENCY: Pollution Control Agency

MINNESOTA RULES: Chapter 7075

The attached rules are approved for publication in the State Register

PMM | DSN

David S. Niss
Assistant Revisor

Office the Revisor of S tutes
Administrative Rules

David S. Niss
Assistant Revisor
297-2948

700 State Office Building
100 Constitution Avenue
St. Paul, MN 55155-1297

July 29, 1988

Jeanne Eggleston
Pollution Control Agency
520 Lafayette Road
Saint Paul, Minnesota 55155

RE: RD1337

Dear Ms. Eggleston:

I am enclosing six copies of your rules, approved as to form.
Please submit two copies to the State Register for publication.

If you have any questions, please call me.

Very truly yours,

David S. Niss

DSN/mm
Encl.

Office of the Revisor of Statutes
Administrative Rules

David S. Niss
Assistant Revisor
297-2948

700 State Office Building
100 Constitution Avenue
St. Paul, MN 55155-1297

August 15, 1988

Jeanne Eggleston
Pollution Control Agency
520 Lafayette Road
Saint Paul, Minnesota 55155

RE: AR1337

Dear Ms. Eggleston:

Enclosed is a stripped copy of your proposed rules as published in the State Register. The copy shows the text of the rules as you proposed them with the stricken text deleted and the underscoring removed.

If your emergency rules or rules adopted without public hearing are adopted without modification, please submit the required number of copies of this document to the Attorney General for final approval. If these rules are to be modified, please use this copy to indicate the modifications you wish to make. Our office will then input the changes, approve the document as to form, and provide you with copies to submit to the Attorney General.

If your rules are adopted after public hearing without modification, please submit one copy of this document to our office for final approval as to form. If these rules are to be modified, please use this copy to indicate the modifications you wish to make. Our office will input the changes, approve the document as to form, and provide you with copies.

Very truly yours,

DSN/cs

David S. Niss

DSN/mm
Encl.

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rules Governing The Administration of the Individual On-site Wastewater Treatment Grants Program for Municipal Wastewater Treatment Projects, Minnesota Rules Chapter 7075.1400 to 7075.1530

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

Notice is hereby given that the Minnesota Pollution Control Agency (Agency) intends to adopt the above-entitled rules without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minnesota Statutes §§ 14.22 to 14.28 (1986). The Agency's authority to adopt the rule is set forth in Minnesota Statutes § 116.18, Subd. 3c(f) (Supp. 1987).

All persons have until 4:30 p.m. on September 15, 1988, to submit comments in support of or in opposition to the proposed rules or any part or subpart of the rules. Comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rules within the comment period. If 25 or more persons submit a written request for a public hearing within the comment period, a public hearing will be held unless a sufficient number withdraw their requests in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any change proposed. If a public hearing is required, the Agency will proceed pursuant to Minnesota Statutes §§ 14.131 to 14.20 (1986).

Comments or written requests for a public hearing must be submitted to:

Jeanne Eggleston
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155
(612) 296-7223

The proposed rules may be modified if the modifications are supported by data and views submitted to the Agency and do not result in a substantial change in the proposed rules as noticed.

The proposed rules, if adopted, will create an individual on-site wastewater treatment systems grants program. The program will make grants available to municipalities to assist owners of individual on-site wastewater treatment systems to upgrade or replace their failed systems. The proposed rules are published below. One free copy of the rules is available upon request from Ms. Eggleston at the address and telephone number stated above.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from Ms. Eggleston upon request.

You are hereby advised, pursuant to Minnesota Statutes § 14.115 (1986), "Small business considerations in rulemaking," that the proposed rules will have no direct effect on small businesses.

In addition, you are hereby advised, pursuant to Minn. Stat. § 14.11 (1986), that none of the cost to local public bodies to construct wastewater treatment facilities is directly attributable to these rules.

Finally, you are hereby advised, pursuant to Minn. Stat. § 17.83 (1986), that the MPCA has determined that these rules will not have an adverse effect on agricultural land.

If no hearing is required, upon adoption of the rules, the rules and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the rules as adopted, must submit a written request to Ms. Eggleston.

Gerald L. Willet

GERALD L. WILLET
Commissioner

Dated: August 1, 1988

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

STATE OF MINNESOTA
OFFICE OF THE ATTORNEY GENERAL
ST. PAUL 55155

ADDRESS REPLY TO:
SUITE 200
520 LAFAYETTE ROAD
ST. PAUL, MN 55155
TELEPHONE: (612) 297-1075

December 8, 1988

12/12/88

Ms. Christie Bennett Eller
Assistant Attorney General
Office of the Attorney General
515 Transportation Building
John Ireland Boulevard
St. Paul, Minnesota 55155

Re: In the Matter of Proposed Rules Governing the Administration of the Individual Onsite Wastewater Treatment Systems Grants Program, Minn. Rules Parts 7075.1400 to 7075.1530

Dear Ms. Eller:

On October 25, 1988, the Minnesota Pollution Control Agency adopted the above-captioned rules governing the Administration of the Individual Onsite Wastewater Treatment Systems Grants Program. Enclosed for your review are the following:

1. Rules as adopted (original and three copies).

2. Findings of Fact, Conclusions, and Order Adopting Rules (two copies).

3. Certificate of Resolution Adopting Rules.

4. Notice of Intent to Solicit Outside Opinion (12 S.R. 297, August 17, 1987).

5. Certificate of Authorizing Resolution.

6. Notice of Intent to Adopt Rules Without a Public Hearing and rules as proposed (13 S.R. 338, August 15, 1988).

7. Notice of Intent to Adopt Rules Without a Public Hearing, as mailed.

8. Affidavit of Mailing the Notice of Intent to Adopt Rule Without a Public Hearing and Certificate of Mailing List.

9. Rules as proposed.

10. Statement of Need and Reasonableness.

11. Declaration of Counsel.

There were no written comments received during either comment period. There were no requests to be notified of submission of rules adopted without public hearing to the Attorney General.

Very truly yours,

Beverly Conerton

Beverly Conerton
Special Assistant Attorney General

Enclosures