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Minnesota Administrative Rules

<https://www.revisor.mn.gov/rules/7077.0117/>

7077.0117 POINTS FOR PROJECTS WITH EXISTING NPDES OR SDS PERMIT.

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

A. For treatment facilities, actual measured flows and loadings over the last 12 months shall be compared to the permitted average wet weather flow or if not available, to the permitted average annual flow and design loadings. "Average annual flow" means daily average flow measured over 365 consecutive days.

B. For collection facilities, actual measured peak flows shall be compared to the documented hydraulic design peak instantaneous wet weather flow of the pipe section or other component, or written documentation of other physical conditions, such as bypassing events occurring at less than design peak instantaneous wet weather flow, shall be submitted, which comparison or documentation shows that the facilities are operating at or above 85 percent of their hydraulic design capacity.

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

Subp. 3. Excessive infiltration or inflow. Fifteen points shall be assigned if the existing facility has excessive infiltration or inflow and the project proposal includes measures to correct the excessive infiltration or inflow.

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

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

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

Subp. 5. Effluent limit more stringent than secondary treatment. Ten points shall be assigned if the existing facility is subject to effluent limits for carbonaceous biochemical oxygen demand or total

suspended solids that are more stringent than those which must be attained by a secondary treatment facility under part 7050.0211, or has an ammonia, total nitrogen, or phosphorus permit limit.

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

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

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

Subp. 7. Projects with effluent discharge violations. Five points shall be assigned if the existing wastewater treatment facility is currently in violation of permit effluent limits that exceed the criteria for noncompliance reporting in the NPDES program under Code of Federal Regulations, title 40, section 123.45, appendix A, and the project is designed to remedy the violation.

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

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

A. Five points shall be assigned if the existing facility discharges into an outstanding resource value water, or into an impaired water, or into both types of waters.

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

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

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

Subp. 10. Proximity to potable water intake. Five points shall be assigned if the existing facility discharges into surface water and there is an intake for potable water less than 25 miles downstream from the point of discharge.

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

Subp. 12. New standards more stringent. Ten points shall be assigned if the project improves the operation of an existing wastewater treatment facility to address one or more of the following circumstances:

- A. the discharge limits for the facility have been or will be made more stringent in a modified or reissued agency permit;
- B. a permit variance for the facility has been discontinued; or
- C. the facility is required to accommodate increased hydraulic flow or organic loading without increasing either the permitted mass or concentration of discharges to receiving waters.

Subp. 13. Receiving water classification. Up to seven points shall be assigned based on the classification of the receiving water as provided in this subpart if the existing facility discharges into surface water. If the receiving water has multiple classifications, only the classification with the highest point value under this subpart shall be used.

Receiving Water Classification Points

2A	7
1,2Bd	5
2B,2C,2D	3
7	1

Subp. 14. Effluent impact on receiving water.

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

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

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

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

- A. a clean water partnership project pursuant to chapter 7076;
- B. an impaired water; or
- C. a United States Environmental Protection Agency-approved watershed restoration action strategy pursuant to section 319 of the federal Clean Water Act.

Subp. 16. Project helps meet total maximum daily load for receiving water. Twenty points shall be assigned to the project if the project contributes to the achievement of a total maximum daily load (TMDL). To be considered as contributing to the achievement of a TMDL, the project must:

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

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

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

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

(1) outstanding resource value water;

(2) impaired water; or

(3) a lake as defined in part 7077.0105, subpart 19a; or

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

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

(2) wetlands as defined in part 7050.0186, subpart 1a.

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

§Subp. 18. Beneficial use of wastewater. Thirty points shall be assigned if a project will result in an agency-approved beneficial use of wastewater that results in reducing or replacing the use of groundwater, surface water, or potable water, provided that the project component resulting in the beneficial use of wastewater accounts for at least 20 percent of the total eligible cost of the project. Projects receiving points under subpart 4 for land discharge shall not receive points under this subpart for additional land discharge.

7077.0118 PRIORITY POINTS FOR PROJECTS IN UNSEWERED AREAS.

<https://www.revisor.mn.gov/rules/7077.0118/>

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

resulting from the system, to the total number of existing structures with wastewater flows to individual sewage treatment systems or other systems in the proposed project service area as described in part 7080.1500, subpart 4, item A.

Subp. 2. Discharges that fail to protect groundwater. Points shall be assigned to a project by multiplying 15 times the ratio of the number of existing structures in the proposed project service area not counted in subpart 1 with individual sewage treatment systems or similar systems that have one or more sewage tanks which obviously leak below the designated operating depth or have less than the required vertical separation as described in part 7080.1500, subpart 4, items D and E, to the total number of existing structures with individual sewage treatment systems in the proposed project service area.

Subp. 3. Noncompliance with setback requirements. Points shall be assigned to a project by multiplying five times the ratio of the number of existing structures with individual sewage treatment systems in the proposed project service area that do not conform to a setback requirement set forth or cited by reference in part 7080.2150, subpart 2, item F, and that were not counted under subpart 1 or 2, to the total number of existing structures with individual sewage treatment systems in the proposed project service area.

Subp. 4. Proximity of individual sewage treatment systems to impaired or outstanding resource value water. Five points shall be assigned to a project if one or more existing individual sewage treatment systems in the proposed project service area are located within 500 feet of an outstanding resource value water, an impaired water, or both.

Subp. 5. Proximity of failing individual sewage treatment systems to outstanding resource value or impaired water. Five points shall be assigned to a project where one or more of the following systems are located within 500 feet of an outstanding resource value water or an impaired water:

A. individual sewage treatment systems or similar systems that have one or more tanks which obviously leak below the designated operating depth or have less than the required vertical separation as described in part 7080.1500, subpart 4, items D and E; or

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

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

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

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

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

Density Points

less than 0.25 0

0.25 to 0.50 10

greater than 0.50 to 1.0 20

greater than 1.0 30

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

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

A. a clean water partnership project pursuant to chapter 7076;

B. an impaired water; or

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

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

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

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

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

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

(1) outstanding resource value water;

(2) an impaired water; or

(3) a lake; or

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

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

(2) wetlands as defined in part 7050.0186, subpart 1a.

§Subp. 11. Beneficial use of wastewater. Thirty points shall be assigned if a project will result in an agency-approved beneficial use of wastewater that results in reducing or replacing the use of groundwater, surface water, or potable water, provided that the project component resulting in the beneficial use of wastewater accounts for at least 20 percent of the total eligible cost of the project. Projects receiving points under subpart 7 for land discharge shall not receive points under this subpart for additional land discharge.

7077.0119 POINTS FOR STORM WATER PROJECTS.

<https://www.revisor.mn.gov/rules/7077.0119/>

Subpart 1. Discharges to impaired waters.

A. Four points shall be assigned if:

- (1) the storm water project service area currently discharges into an impaired water; and
- (2) the project reduces the level of the pollutant for which the receiving water is impaired.

B. For the purposes of this part, discharge into a subwatershed that flows into an impaired water is considered a discharge into that impaired water.

Subp. 1a. Discharges to ORVW's or trout waters.

A. Five points shall be assigned if:

- (1) the storm water project service area currently discharges into an ORVW or a trout water; and
- (2) the storm water project provides treatment that improves the quality of storm water discharges.

B. For the purposes of this part, discharge into a subwatershed that flows into ORVW's or trout waters is considered a discharge into that water.

Subp. 2. Receiving water classification. Up to seven points shall be assigned based on the classification of the receiving water as provided in this subpart if the storm water project provides treatment that reduces the quantity or improves the quality of storm water discharges. If the receiving water has multiple classifications, only the classification with the highest point value under this subpart shall be used.

Receiving Water Classification Points

2A 7

1,2Bd 5

2B,2C,2D 3

7 1

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

A. a clean water partnership project pursuant to chapter 7076;

B. an impaired water; or

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

Subp. 4. [Repealed, 38 SR 444]

Subp. 5. New or expanded diversion of storm water; points subtracted. Five priority points shall be subtracted from the project's priority score if the project involves a new or expanded diversion of storm water to one or more of the following types of water or to a subwatershed that flows into that water:

A. outstanding resource value water;

B. impaired water;

C. water defined as a Class 2A water under part 7050.0222, subpart 2;

D. wetlands as defined in part 7050.0186, subpart 1a; or

E. a lake as defined in part 7077.0105, subpart 19a.

Subp. 6. Project helps meet total maximum daily load for receiving water. Eighteen points shall be assigned if the municipality proposing the project holds a NPDES permit for a municipal separate storm sewer system and is implementing a storm water pollution prevention program according to Code of Federal Regulations, title 40, section 122.34, that addresses requirements resulting from a total maximum daily load waste load allocation.

Subp. 7. Impervious surface ratio. Up to ten points shall be assigned to a storm water project that addresses impervious surfaces through BMP's. The points are determined by the number resulting from multiplying 20 times the ratio of the project service area's impervious surface area to the total project service area to be served by the proposed BMP's and rounding up numbers with fractions to the next whole number.

Subp. 8. Volume reduction. Nine points shall be assigned if the proposed project will result in a storm water volume reduction from an existing discharge. The proposed project must incorporate volume reduction as a major component of the treatment system, or volume reduction must comprise a majority of the cost of the overall proposal. Qualifying best management practices include:

A. rain gardens;

B. bioretention basins;

C. enhanced swales designed to infiltrate;

D. tree boxes, if designed to capture a certain volume;

- E. storm water capture and reuse;
- F. porous pavement, if designed to infiltrate;
- G. green roof technology; or
- H. other similar practices that will result in a storm water volume reduction from an existing discharge.

Subp. 9. New treatment systems. Additional points shall be assigned if the proposed project includes new best management practices that provide treatment to an existing discharge, where the discharge is presently untreated. The number of points shall be awarded based on whether the applicant holds a municipal separate storm sewer system (MS4) NPDES permit that already requires a load reduction based on a total maximum daily load (TMDL):

- A. when an applicant holds an MS4 NPDES permit and is assigned a waste load allocation based on a TMDL, the applicant shall be awarded one point; and
- B. all other eligible applicants shall be awarded 18 points.

§Subp. 10. Multiple environmental benefits. Six points shall be assigned if the proposed project will result in one or more of the multiple environmental benefits described in items A to F. Eligible projects must include a storm water treatment system component or best management practice, and another type of environmental benefit that results from the project. Flood control is already a priority goal of storm water management, so it does not constitute another type of environmental benefit. Qualifying multiple environmental benefits include:

- A. storm water capture and reuse;
- B. creation of wildlife habitat;
- C. creation of a wildlife corridor or preservation of open or connected green space;
- §D. reduced use or need for water, energy, or consumption of other natural resources;
- E. green roof technology that results in measurable reductions to storm water volume; or
- F. other similar practices that provide multiple environmental benefits.

Subp. 11. Structural improvements to existing storm water ponds. Ten points shall be assigned to a project for structural improvements to an existing storm water pond that increase or improve storm water treatment. No points shall be assigned for projects that address only maintenance and do not propose structural improvements.

7077.0121 RANKING OF PROJECTS WITH EQUAL TOTAL NUMBER OF POINTS.

<https://www.revisor.mn.gov/rules/7077.0121/>

§Subpart 1. Tie breaker based on environmental and human health threat. When two or more projects on the project priority list have been assigned the same total number of priority points under parts 7077.0116 to 7077.0119, the project that has the highest number of points assigned based upon

environmental and human health threats shall be ranked higher. For purposes of this part, points assigned under parts 7077.0117, subparts 6 to 11; 7077.0118, subparts 1 to 5; and 7077.0119, subparts 1, 1a, and 2, are based upon environmental and human health threats.

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

Statutory Authority: MS s 103F.745; 115.03; 116.182; 446A.07

History: 30 SR 923; 37 SR 1334; 38 SR 444

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