

CHAPTER 7076

MINNESOTA POLLUTION CONTROL AGENCY

WATER QUALITY DIVISION

CLEAN WATER PARTNERSHIP GRANTS

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7076.0100 PURPOSE.

This chapter provides for the administration of the state clean water partnership grant program and the federal nonpoint source management program as provided by United States Code, title 33, section 1329. Parts 7076.0100 to 7076.0290 implement these programs by establishing the substantive criteria and procedural conditions under which the agency may award state matching grants and provide technical assistance for the development and implementation of nonpoint source projects.

Statutory Authority: *MS s 115.10*

History: *13 SR 661*

7076.0110 DEFINITIONS.

Subpart 1. **Scope.** The terms used in parts 7076.0100 to 7076.0290 have the meanings given them in Minnesota Statutes, chapters 115 and 116, and rules adopted under those chapters and the meanings given them in this part. If terms defined in this part conflict with the definitions in Minnesota Statutes, chapters 115 and 116 and the rules adopted under those chapters, the definitions in this part govern.

Subp. 2. **Agency.** "Agency" means the Pollution Control Agency.

Subp. 3. **Best management practices.** "Best management practices" has the meaning given it in Minnesota Statutes, section 115.093, subdivision 3.

Subp. 4. **Commissioner.** "Commissioner" means the commissioner of the Pollution Control Agency.

Subp. 5. **Land occupier.** "Land occupier" means a person who possesses lands in the project area whether as owner, lessee, renter, tenant, or otherwise, including successors of a land occupier who received a payment during the minimum effective life of a best management practice.

Subp. 6. **Local share.** "Local share" means the contributions of a local unit of government to the eligible cost of a project, including the value of cash expenditures and in-kind contributions of labor, equipment, material, and real property used for and expended on eligible project activities.

Subp. 7. **Local unit of government.** "Local unit of government" has the meaning given it in Minnesota Statutes, section 115.093, subdivision 5.

Subp. 8. **Local water plan.** "Local water plan" means a comprehensive water plan authorized under Minnesota Statutes, chapter 110B; a surface water management plan required under Minnesota Statutes, section 473.878; an overall

plan required under Minnesota Statutes, chapter 112; or until July 1, 1991, any other local plan that provides an inventory of existing physical and hydrologic information on the area, a general identification of water quality problems and goals, and that demonstrates a local commitment to water quality protection or improvement.

Subp. 9. **Nonpoint source.** "Nonpoint source" has the meaning given it in Minnesota Statutes, section 115.093, subdivision 6.

Subp. 10. **Official controls.** "Official controls" has the meaning given it in Minnesota Statutes, section 115.093, subdivision 7.

Subp. 11. **Person.** "Person" has the meaning given it in Minnesota Statutes, section 115.01, subdivision 10.

Subp. 12. **Project.** "Project" has the meaning given it in Minnesota Statutes, section 115.093, subdivision 8.

Subp. 13. **Project area.** "Project area" means the area identified as hydrologically contributing to the water of concern for which the diagnostic study and implementation plan are developed and implemented.

Subp. 14. **Project continuation grant amendment.** "Project continuation grant amendment" means an amendment to an existing project implementation grant to provide funds to continue implementation of activities identified in an approved diagnostic study and implementation plan that were not funded in the initial project implementation grant.

Subp. 15. **Project coordination team.** "Project coordination team" means the public interagency group established in Minnesota Statutes, section 115.103, subdivision 1.

Subp. 16. **Project development.** "Project development" means the development of a diagnostic study and implementation plan.

Subp. 17. **Project development grant.** "Project development grant" means a grant from the agency to the project sponsor for the preparation of a diagnostic study and implementation plan.

Subp. 18. **Project implementation.** "Project implementation" means the implementation of an approved diagnostic study and implementation plan or their equivalent.

Subp. 19. **Project implementation grant.** "Project implementation grant" means a grant from the agency to the project sponsor for the implementation of a diagnostic study and implementation plan or their equivalent.

Subp. 20. **Project sponsor.** "Project sponsor" means the local unit of government that applies for a grant, enters into a grant contract, and is responsible for development and implementation of the project.

Subp. 21. **Water pollution.** "Water pollution" has the meaning given it in Minnesota Statutes, section 115.01, subdivision 5.

Subp. 22. **Waters of the state.** "Waters of the state" has the meaning given it in Minnesota Statutes, section 115.01, subdivision 9.

Subp. 23. **Water of concern.** "Water of concern" means the specific water of the state which the project is focused on improving or protecting.

Statutory Authority: *MS s 115.10*

History: *13 SR 661*

7076.0120 AVAILABLE ASSISTANCE.

Subpart 1. **Financial assistance.** There are two types of grants available for nonpoint source projects: (1) project development grants, and (2) project implementation grants. The grants are for a maximum of 50 percent of the eligible cost of the project. Grants must be awarded, within the limits of available appropriations, to those applicants having the highest priority.

Subp. 2. **Technical assistance.** The agency may provide technical assistance to local units of government in order to ensure efficient and effective development and implementation of projects. Technical assistance must be given to local units of government that receive grants, within the limits of available resources.

Statutory Authority: *MS s 115.10*

History: *13 SR 661*

7076.0130 ELIGIBILITY CRITERIA.

Subpart 1. **Eligible applicants.** Only local units of government are eligible to apply for grants and receive technical assistance. A local unit of government is eligible to apply for state matching grants and request technical assistance if it has the following:

A. the authority to coordinate and enter into contracts with local, state, and federal agencies and private organizations for the purpose of carrying out a project;

B. the authority to generate cash revenues and in-kind contributions for the local share of a project; and

C. the authority to adopt, implement, and enforce official controls.

Subp. 2. **Eligible costs.** Project costs are eligible for state matching grants if the costs are reasonable and necessary and allocable for the development of a diagnostic study and implementation plan, or for the implementation of the plan, and if the costs are related to any of the following activities:

A. water quality monitoring, water resource and project area data and information collection, data and information analysis and assessment, and related tasks;

B. fiscal and management activities including report preparation;

C. selection, design, layout, and installation of best management practices;

D. development, review, and inspection of installation, operation, and maintenance procedures for best management practices;

E. development and implementation of public education materials and activities;

F. development and implementation of official controls;

G. acquisition of easements and property; and

H. other activities determined by the agency or established by federal regulation to be necessary to develop and implement the project.

Subp. 3. **Ineligible costs.** Ineligible costs include any costs that are not related to the activities in subpart 2. In addition, the following costs are ineligible whether or not they relate to the activities in subpart 2:

A. installation of best management practices before the grant award;

B. operation and maintenance of best management practices;

C. activities regulated by the National Pollutant Discharge Elimination System permit program, parts 7001.1000 to 7001.1100; the State Disposal System permit program; the Petroleum Tank Release Cleanup Act, Minnesota Statutes, chapter 115C; the Environmental Compensation and Liability Act, Minnesota Statutes, chapter 115B; the Comprehensive Environmental Response, Compensation, and Liability Act, United States Code, title 42, sections 9601 to 9675; and the Resource Conservation and Recovery Act, United States Code, title 42, sections 6901 to 6991;

D. activities regulated by a condition of a solid waste or hazardous waste permit or the agency solid waste rules, chapter 7035; or the agency hazardous waste rules, chapter 7045;

E. activities funded by state or federal grants for wastewater treatment facilities;

F. regulated practices to control spills of pesticides, fertilizer, petroleum, and related materials from bulk storage facilities;

G. regulated practices to manage toxic or hazardous materials;

H. commercial operations and industrial processes and land use and land management activities directly related to commercial operations and industrial processes including plant yards, access roads, drainage ponds, refuse piles, storage piles, and material product loading areas;

I. active and inactive mining activities;

J. building and utility construction;

K. highway and road construction;

L. dredging of harbors, lakes, and ditches;

M. activities intended primarily for flood control; and

N. activities that violate local, state, and federal statutes, rules, and regulations.

Subp. 4. Eligible local share. At least 30 percent of the project costs must be derived from nonstate and nonfederal sources. Costs incurred by a land occupier for the installation of best management practices may be considered a part of the local share paid by the local unit of government provided the following conditions are met:

A. the primary purpose of the best management practices is for improvement and protection of water quality;

B. the best management practices must be designed for a minimum effective life of ten years;

C. the best management practices are a part of an approved implementation plan; and

D. there must be an operation and maintenance plan for the minimum effective life of the best management practices.

Statutory Authority: *MS s 115.10*

History: *13 SR 661*

7076.0140 NOTICE OF GRANT AVAILABILITY.

Subpart 1. Notice. The agency will publish in the State Register a notice that applications for project development grants and project implementation grants will be accepted whenever the agency determines that funds are available to award the grants. The notice will contain a deadline for application submittal, which must be no less than 60 days from the date of publication.

Subp. 2. Notification list. The agency shall maintain a list of those local governmental bodies that wish to be notified of grant application periods. Any local governmental body that wishes to be placed on the list shall notify the agency by writing to the director of the public information office. Whenever the agency publishes notice in the State Register, the agency shall mail notice of the grant application period to those local governmental bodies on the list.

Subp. 3. Grant application periods. The agency may establish a grant application period from time to time but there must be at least one application period each calendar year if funds are available.

Statutory Authority: *MS s 115.10*

History: *13 SR 661*

7076.0150 GRANT APPLICATION.

Subpart 1. General requirements. The grant application must be submitted by the local unit of government that will be the project sponsor. A grant application must be submitted in a timely fashion to be considered. The grant application must be submitted on a form provided by the agency and must contain the information required in the form and by this part.

Subp. 2. Project development grant. An applicant submitting an application for a project development grant must submit the following information:

A. a resolution by the local unit of government that will be the project sponsor, authorizing the filing of the application and designating an official authorized to execute the grant application, the grant contract, and other related project documents;

B. written documentation that the project sponsor has consulted with soil and water conservation districts and watershed districts in the project area, in preparing the grant application;

C. identification of agencies and organizations that will be involved in project development;

D. resolutions from each participating local unit of government which identifies their role in project development and identification of their contribution to the local share of project development costs;

E. the amount of grant funding requested;

F. a list identifying the amount, type, and source of the local share;

G. a work plan and schedule that contain the following:

(1) the identification of each water of the state that will be affected by the project;

(2) a description of the existing or potential surface and ground water problems that are to be addressed in the project;

(3) a work plan listing the activities that the grant would make possible; and

(4) a schedule containing milestones for project development;

H. a local water plan that provides an inventory of existing physical and hydrologic information on the project area, a general identification of water quality problems, and goals for resource use, and demonstrates a local commitment to water quality protection or improvements; and

I. documents required by state or federal statutes, rules, and regulations.

Subp. 3. Project implementation grant. An applicant submitting an application for a project implementation grant shall submit the following information:

A. a resolution by the local unit of government that will be the project sponsor, authorizing the filing of the application and designating an official authorized to execute the grant application, the grant contract, and other related project documents;

B. written documentation that the project sponsor has consulted with soil and water conservation districts and watershed districts in the project area, in preparing the grant application;

C. a diagnostic study and implementation plan approved under part 7076.0260, or an equivalent study and plan that addresses the requirements of a diagnostic study and implementation plan and that has been approved under part 7076.0260 and which contains a local water plan that provides an inventory of existing physical and hydrologic information on the project area, a general identification of water quality problems, and goals for resource use, and demonstrates a local commitment to water quality protection or improvements;

D. resolutions from each participating local unit of government that identify their role in project implementation and their contribution to the local share of project implementation costs;

E. a detailed work plan and schedule for project implementation during the grant period;

F. a detailed budget for the grant period including the identification of the amount requested in the grant;

G. a list identifying the amount, type, and source of the local share;

H. a description of the work and the budget for project implementation beyond the grant period, including an indication of whether the project sponsor anticipates applying for a project continuation grant amendment; and

I. documents required by state or federal statutes, rules, and regulations.

Statutory Authority: *MS s 115.10*

History: *13 SR 661*

7076.0160 REJECTION OF GRANT APPLICATION.

Subpart 1. Grounds. An application for a project development grant or a project implementation grant shall be rejected by the commissioner for the following reasons:

A. an ineligible applicant;

B. ineligible costs;

C. a late submittal; or

D. failure to comply with any requirement of statute or rule.

Subp. 2. Procedure. The commissioner shall review each grant application within 30 days after the deadline for application submittal. The commissioner shall notify each rejected grant applicant of the rejection of its application and the reasons for the rejection.

Subp. 3. Effect of rejection. A grant applicant whose application is rejected for a reason other than for late submittal has 14 days from receipt of the notice of rejection to correct any deficiencies, if correction is possible. If the application is corrected within the 14 days, the application must be accepted and the project must be ranked with other approved grant applications. An application that cannot be or is not corrected must not be further considered. A grant applicant whose application is rejected and not corrected must reapply in a subsequent application period in order to be considered for a grant.

Statutory Authority: *MS s 115.10*

History: *13 SR 661*

7076.0170 PROJECT RANKING.

Subpart 1. Process of ranking. Upon completion of the commissioner's review of the grant applications for acceptability, the agency shall rank the acceptable grant applications in order of priority. Each project for which an acceptable grant application has been submitted must be awarded the number of priority points the project is entitled to under subparts 2 and 3. The project with the highest number of priority points will be given the highest priority. All projects will be given a ranking depending on the number of points awarded. The project development grant applications must be ranked separately from the project implementation grant applications.

Subp. 2. Priority points for project development grant applications. The following criteria must be used to determine the number of priority points to be awarded in the evaluation of each project development grant application. The agency shall award each project between zero and ten points under each of the following criteria, depending on how well the project satisfies the criterion. The number of points awarded under each criterion must be added together to determine the project's total point value. This total number must be used to determine the project's overall ranking and priority. The criteria are as follows:

A. the extent to which the proposed project demonstrates a high potential for project success based on community support and involvement as well as participation, coordination, and cooperation of federal, state, and local agencies and units of government for water quality protection and improvement;

B. the extent to which the proposed project takes place where local units of government have adopted and implemented authorities or official controls to abate or prevent water pollution from nonpoint sources;

C. the extent to which the water of concern is identified as a priority water in the local water plan;

D. the extent to which the proposed project affects waters identified in the statewide resource assessment conducted under Minnesota Statutes, section 115.095, as waters that could not be expected to attain or maintain compliance with applicable water quality standards or goals without additional control of nonpoint sources;

E. the extent to which the project demonstrates a likelihood of transferability to similar resources;

F. the extent to which the project is of a size and scale to promote successful project management and water quality protection and improvement; and

G. the priority placed on each project by the project coordination team.

Subp. 3. Priority points for project implementation grant applications. The following criteria must be used to determine the number of priority points to be awarded in the evaluation of each project implementation grant application. The agency shall award each project between zero and ten points under each of the following criteria, depending on how well the project satisfies the criterion. The number of points under each criterion must be added together to determine the project's total point value. This total number must be used to determine the project's overall ranking and priority. The criteria are as follows:

A. the extent to which the project demonstrates a high potential for successful water quality protection and improvement based on a comparison of existing water quality and the project's goals and objectives with maximum contaminant levels and recommended allowable limits for drinking water, water quality standards, and regional lake and stream water quality criteria published by the agency, the Minnesota Department of Health, and the United States Environmental Protection Agency;

B. the extent to which the project employs best management practices which provide a technically and economically feasible means to abate or prevent water pollution from nonpoint sources;

C. the extent to which the project maximizes water quality protection or improvement relative to the cost of project implementation;

D. the extent to which the project goals and objectives are consistent with state water quality management plans and other applicable state and federal resource management programs;

E. the extent to which the project demonstrates a high potential for project success based on community support and involvement as well as participation, coordination, and cooperation of federal, state, and local agencies and units of government for water quality protection and improvement;

F. the extent to which the project demonstrates a significant degree of transferability to similar local units of government; and

G. the priority placed on each project by the project coordination team.

Subp. 4. Project coordination team. The project coordination team has 60 days from the close of the application period to assign points to each project seeking a grant. In the event that the project coordination team fails to assign points to all projects with approved grant applications, the projects must be ranked without considering any points under the category for the project coordination team. The project coordination team must use the criteria established in Minnesota Statutes, section 115.098, to assign points to each project seeking a grant.

Statutory Authority: *MS s 115.10*

History: *13 SR 661*

7076.0180 ALLOCATION OF FUNDING.

Subpart 1. Project continuation grant amendments. Each year by March 1, the agency shall determine how much of the available funds will be set aside to meet that year's anticipated requests for project continuation grant amendments. If the agency subsequently determines that the amount set aside for project continuation grant amendments is more than is required for grant amendments in that year, the agency may reallocate this money to other project development grants and project implementation grants or carry over the money to another grant application period.

Subp. 2. Grant fund allocation. Within 90 days of the close of an application period, the agency shall determine how much of the remaining funds, after setting aside funds for project continuation grant amendments, will be made available for project development and project implementation grant awards. In deciding how much money to make available for new grant awards, the agency shall consider the necessity to have money available for subsequent grant periods, the necessity to have money available for anticipated project continuation grant amendments in the next year, and other factors relating to the agency's ability to ensure that money will be available for upcoming projects.

Subp. 3. Development; implementation split. Within 90 days of the close of an application period, the agency shall determine how much of the funds available for new grants in that application period will be available for project development and project implementation grants. In determining the allocation of funds between project development and project implementation grants, the agency shall consider:

A. the availability and conditions for use of federal funds; and

B. the phasing in and continuity of projects in the program.

If the money intended for project development or project implementation grants, or both, is not awarded during a grant period, the agency may reallocate the funds to the other kind of grant or to a subsequent grant period.

Statutory Authority: *MS s 115.10*

History: *13 SR 661*

7076.0190 SELECTION OF PROJECTS FOR GRANT AWARD.

Subpart 1. Ranking. The agency shall complete its ranking of all projects for which an acceptable grant application has been submitted within 90 days of the close of the application period. The agency shall rank development projects separately from implementation projects.

Subp. 2. Projects funded. The agency shall select those projects that will be awarded grant funds by awarding grants to the highest priority project development and project implementation applications within the limits of available funds established under part 7076.0180, subpart 2. A project that receives less than 40 points will not be considered for award of grant funds.

Subp. 3. Agency decision. All decisions of the agency in ranking projects and awarding grants must be made at a regular or special board meeting.

Subp. 4. Timing. The agency shall make its decision on fund allocation, project ranking, and projects to which grants will be awarded within 90 days of the close of the application period.

Subp. 5. Reapplication. A grant applicant whose application is not awarded grant funds must reapply in a subsequent application period to be considered for a grant.

Statutory Authority: *MS s 115.10*

History: *13 SR 661*

7076.0200 PROJECT CONTINUATION GRANT AMENDMENT.

Subpart 1. Eligibility. A project sponsor who has been awarded a project implementation grant is eligible for a project continuation grant amendment to continue the project after the expiration of the initial grant. The requirements that applied to the initial grant apply to the project continuation grant amendment. A project sponsor is eligible for one project continuation grant amendment on a particular project.

Subp. 2. Request. A project sponsor who seeks a project continuation grant amendment shall submit a request for the grant amendment in the year that the activities funded through the initial project implementation grant will be completed and additional funds will be required to continue project implementation. The request must be submitted on a form provided by the agency and may be submitted at any time during the calendar year the funds will be needed. A project sponsor who fails to submit a request for a project continuation grant amendment in the year the funds are required forfeits the right to an amendment. That project sponsor may apply in a subsequent grant period to continue the project and compete with other applicants for a project implementation grant.

Subp. 3. Approval. The agency shall approve the project sponsor's request for a project continuation grant amendment if it meets the following conditions:

A. the project sponsor has satisfied the terms and conditions of the grant to date; and

B. the project sponsor has identified the source of the local share of funds necessary for the project continuation grant amendment.

Statutory Authority: *MS s 115.10*

History: *13 SR 661*

7076.0210 GRANT CONDITIONS.

Subpart 1. Amount. A grant that is made must be for the amount requested by the applicant, up to a maximum of 50 percent of the eligible cost of project development or project implementation.

Subp. 2. Grant period. The grant period for a project development grant will be for a period of two years. The grant period for a project implementation grant will be for a period of three years and may be extended an additional three years with agency approval of a request for a project continuation grant amendment in accordance with part 7076.0200.

Subp. 3. Grant contract. The project sponsor must enter into a contract with the agency before a grant will be awarded. The contract must include the provisions in part 7076.0220.

Subp. 4. Records. The project sponsor shall maintain all records relating to the receipt and expenditure of grant funds for a period of at least three years from the date of termination of the grant contract.

Subp. 5. Audit. The project sponsor must agree that the books, records, documents, and accounting procedures and practices of the project sponsor relevant to this program may be examined at any time by the commissioner or the commissioner's designee.

Subp. 6. Annual progress report. The project sponsor shall submit an annual progress report to the commissioner by February 1 of each year the grant is in effect. The report must include the following information:

A. a discussion of work progress relative to the schedule, and difficulties encountered meeting the schedule during the year;

B. a discussion of the project findings appropriate to the work conducted during the year;

C. a report of expenditures in the year and those anticipated during the upcoming year;

D. a discussion and summary analysis of monitoring data and a discussion of the changes in water quality that appear to have resulted from the protective and restorative activities implemented during the year; and

E. water quality monitoring data collected during the year in the format required by the agency.

Subp. 7. Mid-year update. The project sponsor shall give the commissioner a mid-year update by August 1 of each year the grant is in effect. The mid-year update must include a brief report on project progress and difficulties encountered in meeting the project schedule.

Subp. 8. Monitoring plan. The project sponsor shall submit a monitoring plan to the commissioner within 60 days of the award of the grant. The monitoring plan must be revised annually and submitted to the commissioner by January 31. The monitoring plan must comply with part 7076.0230.

Subp. 9. Diagnostic study and implementation plan. The project sponsor for a project development grant shall submit to the commissioner before the final grant payment is made a diagnostic study and implementation plan that meets the requirements of parts 7076.0240 and 7076.0250.

Subp. 10. Eligible costs. No grant funds shall be used to reimburse the project sponsor for costs incurred after the end of the contract period.

Statutory Authority: *MS s 115.10*

History: *13 SR 661*

7076.0220 GRANT CONTRACT.

Subpart 1. Contents. The agency and the project sponsor shall enter into a grant contract. The grant contract must:

A. establish the terms and conditions of the grant;

B. provide that the project sponsor may enter into contracts, under terms and conditions specified by the agency, to complete the work specified in the contract;

C. provide that the cost overruns are the sole responsibility of the project sponsor;

D. require that the project sponsor submit periodic progress reports and a final report to the agency in a format prescribed by the agency; and

E. incorporate terms and conditions required by federal or state statutes, rules, and regulations.

Subp. 2. Amendments. A grant contract may be amended upon agreement of the agency and the project sponsor.

Subp. 3. Contract period. Grant contracts for project development will be for a period of up to two years. Grant contracts for project implementation will be for a period of up to six years. The agency may allow a one year extension of either of these grant contracts.

Statutory Authority: *MS s 115.10*

History: *13 SR 661*

7076.0230 MONITORING PLAN.

Subpart 1. Requirements. The monitoring plan required to be submitted to the commissioner as a condition of the grant must:

A. identify and provide rationale for the selection of monitoring sites, monitoring frequency, and parameters to be monitored; and

B. identify laboratories that will do analyses and explain their quality assurance and quality control procedures.

Subp. 2. Review. The commissioner will review the monitoring plan and approve it or identify deficiencies in writing within 45 days of its receipt. The project sponsor shall have 15 days to correct any deficiencies.

Subp. 3. **Grant payment.** No grant payment shall be paid after March 31 in any year in which a monitoring plan has not been approved.

Statutory Authority: *MS s 115.10*

History: *13 SR 661*

7076.0240 DIAGNOSTIC STUDY.

Subpart 1. **General requirements.** The diagnostic study required to be submitted by a project sponsor under part 7076.0210, subpart 9, must include:

- A. a detailed description of the water of concern;
- B. a detailed description of the project area;
- C. an analysis and assessment of the data and information collected as a requirement of subparts 2 and 3; and
- D. the identification and documentation of the methods, procedures, model, and other tools used to prepare and complete the diagnostic study.

Subp. 2. **Description of water of concern.** The diagnostic study must contain a detailed description of the water of concern that includes:

- A. a summary of historical uses and changes resulting from water quality degradation;
- B. a discussion of previous studies and other historic baseline physical, chemical, and biological data; and
- C. current data or information for the following:
 - (1) if the water of concern is a lake, the description shall include the following:

(a) identification or measurement of lake surface area, maximum depth, average depth, one in ten year low and high as well as average hydraulic residence time, temperature profiles, secchi disk transparencies, the area of the watershed draining to the lake, its tributaries, their estimated contribution to inflows, and a hydrologic budget including groundwater flow;

(b) measurement of dissolved oxygen, total phosphorus, dissolved inorganic phosphorus, total Kjeldahl nitrogen, nitrite plus nitrate nitrogen, total suspended solids; total alkalinity, chloride concentrations, color, pH, and conductivity; determination of mass loadings of total phosphorus, total Kjeldahl nitrogen, and total suspended solids from major tributaries and completion of nutrient and sediment budgets for the lake;

(c) measurement of average summer epilimnetic chlorophyll a, a description of predominant phytoplankton, zooplankton, and submerged, floating, and emergent vascular plant communities; measurement of fecal streptococcus and fecal coliform bacteria where human health may be impacted; and

(d) a summary of available fisheries information;

(2) if the water of concern is a stream, the description shall include the following:

(a) identification or measurement of stream length, sinuosity, order, substrate, estimated maximum high flow for 24 consecutive hours that has a recurrence interval of 25 years, mean flow for the available period of record, and annual minimum flow for seven consecutive days that has a recurrence interval of ten years;

(b) measurement of flow and biochemical oxygen demand, total phosphorus, nitrite plus nitrate nitrogen, ammonia nitrogen, organic nitrogen, total dissolved solids, total suspended solids, and diurnal dissolved oxygen concentrations, turbidity, pH, and conductivity;

(c) measurement of fecal streptococcus and fecal coliform bacteria where human health may be impacted; and

(d) completion of invertebrate and fishery assessments using

standard benthological and ichthyological techniques; identification of significant biological habitats including riparian vegetation and spawnings areas; and

(3) if the water of concern is an aquifer, the description shall include the following:

(a) identification or measurement of the aquifer physical type, size, temperature, saturated thickness, recharge sources, discharge sources transmissivity, hydraulic residence time, range of hydraulic gradients, and underlying lithology and stratigraphy;

(b) measurement of chemical oxygen demand, total organic carbon, total Kjeldahl nitrogen, ammonia nitrogen, nitrite plus nitrate nitrogen, total phosphorus, chloride, sulfate, calcium, magnesium, iron, manganese, potassium, sodium, bicarbonate, and alkalinity concentrations, oxidation potential, pH, and specific conductance;

(c) measurement of organic compounds, pesticides, and metals in areas where they are pollutants of concern;

(d) measurement of fecal streptococcus and fecal coliform bacteria where human health may be impacted; and

(4) if the water of concern is water other than a lake, stream, or aquifer, the data and information requirements will be determined jointly by the agency and the project sponsor.

Subp. 3. Description of project area. The diagnostic study must contain a detailed description of the project area that includes:

A. a map of the project area;

B. an aerial photo of the project area;

C. maps of general topographic relief based on United States Geological Survey topographic maps;

D. a map of the project area divided into subunits on a hydrologic basis including boundaries and flow directions for each subunit;

E. a description of important aquifer systems, confining layers, and flow characteristics;

F. a description of ground and surface water interconnections, such as recharge and discharge areas;

G. a description of known geologic conditions, such as karst areas, buried valleys, or sand plains that may pose concerns relating to water quality;

H. a description of waters of the state and public drainage ditches, including dams and control structures;

I. soil:

(1) a general soils map and description of soils infiltration characteristics; and

(2) a map of erosion prone soils;

J. land use:

(1) existing and future land uses;

(2) areas served by storm sewers, sanitary sewers, and public water systems;

(3) the location of community public water supply, intakes, and wells;

(4) irrigated acreage;

(5) domestic animal density and feedlots;

(6) on-site wastewater treatment systems;

(7) existing management practices;

(8) known tiling and drainage systems;

(9) estimates of pesticide and fertilizer use;

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(10) known closed and open sanitary landfills, closed and operating open dumps, and hazardous waste sites;

(11) known abandoned wells not sealed in accordance with state statutes and rules;

(12) underground storage tank sites;

(13) permitted wastewater disposal systems and discharges under chapter 7001;

(14) wetlands identified under the National Wetlands Inventory and a summary of applicable management plans;

(15) areas delineated as floodplains;

(16) areas with known flooding problems;

(17) a summary of the state ecological and management classifications;

(18) a summary of state management plans for fish and wildlife;

(19) unique features and scenic areas with relationships to water including state designated natural and scientific areas, outstanding resource value waters, areas containing county, state, and federal rare and endangered species and other features such as waterfalls and springs;

(20) the ownership of local, state, and federal Indian tribal lands;

(21) lands with easements that relate to water resources;

(22) population characteristics; and

(23) a summary of recreational land uses;

K. precipitation:

(1) a map and list of the location of precipitation gauging stations in the project area;

(2) a map showing isolines of normal annual total precipitation;

(3) a map showing isolines of normal precipitation in inches for the period May to September; and

(4) a summary of precipitation information for the project area; and

L. hydrology:

(1) an estimate of the maximum high flow for 24 consecutive hours that has a recurrence interval of 25 years, mean flow for the available period of record, and annual minimum flow for seven consecutive days that has a recurrence interval of ten years;

(2) a description of permitted withdrawals from lakes and streams, including location, source, use, and amounts withdrawn;

(3) a description of protected levels or flows that have been established for lakes and streams;

(4) a description of known water use conflicts, including those caused by groundwater pumping, that affect surface waters;

(5) a description of wells covered by state appropriation permits including location, amounts of water appropriated, type of use, and aquifer source;

(6) a description of known well interference problems and water use conflicts; and

(7) a list of state observation wells including location, unique well number, aquifers measured, years of record, and average monthly levels.

Subp. 4. Analysis and assessment. The diagnostic study must contain an analysis and assessment of the data and information collected as a requirement of subparts 2 and 3 including the following:

A. the identification of existing and potential water quality problems;

B. the identification of water quality goals for the water of concern;

C. the identification of project objectives in terms of:

(1) specific water chemical, biological, and physical measurements;
and

(2) economic, recreational, and health factors;

D. an estimate of the pollutants coming from the subunit of project area defined on a hydrologic basis and the identification of the target levels of pollutant reduction necessary to meet the project objectives and water quality goals;
and

E. the identification and ranking of the subunit of the project area defined on a hydrologic basis into priority management areas on which to focus implementation of best management practices.

Subp. 5. **Exemption.** Upon written request from the project sponsor, the agency may allow an exemption from a specific diagnostic study requirement that does not provide data or information useful for diagnosis of the problem or solutions.

Statutory Authority: *MS s 115.10*

History: *13 SR 661*

7076.0250 IMPLEMENTATION PLAN.

The implementation plan required to be submitted by a project sponsor under part 7076.0210, subpart 9, must include:

A. an analysis of the need for best management practices that will aid in the achievement of target levels of pollutant reduction in the areas identified as priority management areas, that includes:

(1) identification of best management practices;

(2) an estimate of costs for practice installation;

(3) a schedule for implementation;

(4) an estimate of engineering and other assistance needs, including best management practice design, and inspection of installation, operation, and maintenance;

(5) an estimate of pollutant reduction; and

(6) identification of the standards and criteria for best management practice design;

B. a project implementation water quality monitoring and evaluation plan identifying procedures and schedules for determine project progress and accomplishments, that includes:

(1) a monitoring plan that includes the chemical, physical, and biological parameters that will be measured to enable comparisons with goals and objectives established in the diagnostic study;

(2) a procedure to document and evaluate the implementation of best management practices; and

(3) a procedure to identify effectiveness of the best management practices on water quality, and their impact on water resources in the project area;

C. a plan and schedule to implement an information and education program in the project area;

D. an identification of roles and responsibilities of the project sponsor, its representatives, and cooperating agencies in implementing the project;

E. a proposed schedule for project implementation, segmented into three year periods;

F. an estimated budget for project implementation segmented into three year periods;

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G. a plan to maintain project goals and accomplishments and prevent further nonpoint source pollution;

H. a list of any federal, state, or local permits and approvals required to complete the project; and

I. an opinion and supporting documentation from the project sponsor's attorney that the project sponsor and participating local units of government have the legal authority to implement the project.

Statutory Authority: *MS s 115.10*

History: *13 SR 661*

7076.0260 DIAGNOSTIC STUDY AND IMPLEMENTATION PLAN APPROVAL.

Subpart 1. Review and decision. The commissioner shall review and approve or disapprove the diagnostic study and implementation plan within 90 days of their receipt. The commissioner shall approve the diagnostic study and implementation plan if the commissioner determines that:

A. the diagnostic study and implementation plan meet the requirements for a diagnostic study and implementation plan identified in parts 7076.0240 and 7076.0250;

B. the diagnostic study provides information in sufficient detail to technically define the water quality problems, sources of pollution, and project goals and objectives for water quality protection and improvement;

C. the implementation plan provides a technically feasible means to abate nonpoint sources of water pollution and achieve project objectives; and

D. the diagnostic study and implementation plan are consistent with state and federal statutes, rules, and regulations.

Subp. 2. Reasons for disapproval. If the diagnostic study and implementation plan are disapproved, the commissioner shall provide the project sponsor with a written statement of reasons for disapproval.

Subp. 3. Resubmittal. A disapproved diagnostic study and implementation plan must be revised by the project sponsor and resubmitted to the commissioner. Upon receipt of the revised diagnostic study and implementation plan, the commissioner shall review the revised diagnostic study and implementation plan.

Statutory Authority: *MS s 115.10*

History: *13 SR 661*

7076.0270 BEST MANAGEMENT PRACTICE EVALUATION.

In selecting best management practices for inclusion in an implementation plan, the project sponsor shall consider the following factors in evaluating the best management practices:

A. whether the best management practice will achieve the desired project objectives;

B. whether the best management practice implementation would create other water quality or environmental problems;

C. the degree of nonpoint source control achieved for the amount of resources allocated for that control;

D. whether a less costly best management practice could achieve a similar result; and

E. whether the best management practice is reasonably suited for the individual site.

Statutory Authority: *MS s 115.10*

History: *13 SR 661*

7076.0280 GRANT PAYMENTS.

Subpart 1. Reimbursement. The project sponsor may submit a request for reimbursement of expenditures for each of the standard calendar quarters ending March 31, June 30, September 30, and December 31. The agency shall pay the reimbursement within 45 days of the request if the grantee is in compliance with conditions of the grant contract and requirements of parts 7076.0100 to 7076.0290.

Subp. 2. Final payment. The agency shall withhold reimbursement on the final ten percent of the grant contract amount until the agency is satisfied that the project has been completed in accordance with the terms of the grant contract and parts 7076.0100 to 7076.0290.

Subp. 3. Withholding of reimbursement. The agency shall withhold reimbursement if the project sponsor has failed to comply with any requirements of the grant contract or parts 7076.0100 to 7076.0290. The funds will not be released until the agency determines that the project sponsor has corrected the deficiencies causing noncompliance.

Subp. 4. Advance. The project sponsor may submit a request for an advance of grant funds after the commissioner approves the project monitoring plan. The advance is limited to ten percent of the grant award or \$50,000, whichever amount is less.

Statutory Authority: *MS s 115.10*

History: *13 SR 661*

7076.0290 GRANT RESCISSION.

The agency may rescind a grant if the project is not being completed in accordance with the terms and conditions of the grant, including time schedules.

Statutory Authority: *MS s 115.10*

History: *13 SR 661*