

# 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, chapter 116, and rules adopted under that chapter and the meanings given them in this part. If terms defined in this part conflict with the definitions in Minnesota Statutes, chapter 116 and the rules adopted under that chapter, 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 103F.711, subdivision 3.

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

Subp. 5. [Repealed, 16 SR 584]

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 103F.711, subdivision 5.

Subp. 8. **Local water plan.** "Local water plan" means a comprehensive water plan authorized under Minnesota Statutes, chapter 103B; a surface water management plan required under Minnesota Statutes, section 103B.231; or an overall plan required under Minnesota Statutes, chapter 103D, that has been approved by the Board of Water and Soil Resources.

Subp. 9. **Nonpoint source.** "Nonpoint source" has the meaning given it in Minnesota Statutes, section 103F.711, subdivision 6.

Subp. 10. **Official controls.** "Official controls" has the meaning given it in Minnesota Statutes, section 103F.711, subdivision 7.

Subp. 11. [Repealed, 16 SR 584]

Subp. 12. **Project.** "Project" has the meaning given it in Minnesota Statutes, section 103F.711, 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 prepared 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 or partially 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 103F.761.

Subp. 16. [Repealed, 16 SR 584]

Subp. 17. [Repealed, 16 SR 584]

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. 20a. **Resource investigation.** “Resource investigation” means the preparation of a diagnostic study and implementation plan.

Subp. 20b. **Resource investigation grant.** “Resource investigation grant” means a grant from the agency to the project sponsor for the preparation of a diagnostic study and implementation plan.

Subp. 21. **Water pollution.** “Water pollution” has the meaning given it in Minnesota Statutes, section 115.01, subdivision 13.

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

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

Subp. 24. **Work plan.** “Work plan” means a document prepared by a project sponsor that describes in detail the work activities to be undertaken by the sponsor to fulfill the requirements of Minnesota Statutes, sections 103F.701 to 103F.761, and of parts 7076.0100 to 7076.0290. A work plan is approved by the commissioner and includes the items required under part 7076.0230.

**Statutory Authority:** *MS s 103F.745; 115.10*

**History:** *13 SR 661; 16 SR 584*

#### **7076.0120 AVAILABLE ASSISTANCE.**

Subpart 1. **Financial assistance.** There are two types of grants available for nonpoint source projects: (1) resource investigation 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 103F.745; 115.10*

**History:** *13 SR 661; 16 SR 584*

#### **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;

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

D. the water of concern is addressed in an approved local water plan.

**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. Costs identified under subpart 2 are ineligible if the related project activities are started before the grant contract has been signed by the commissioner of finance. 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 103F.745; 115.10*

**History:** *13 SR 661; 16 SR 584*

#### **7076.0140 NOTICE OF GRANT AVAILABILITY.**

Subpart 1. **Notice.** The agency will publish in the State Register a notice that applications for resource investigation 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 water quality division. 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 103F.745; 115.10*

**History:** *13 SR 661; 16 SR 584*

#### **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. **Resource investigation grant.** An applicant submitting an application for a resource investigation 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;

- 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 local units of government, agencies, and organizations that will be involved in resource investigation;

- D. letters of support from each participating local unit of government, agency, and organization which identify their role in resource investigation and their contribution to the local share of resource investigation costs;

- E. the amount of grant funding requested;

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

- G. a preliminary work plan that contains the following:

- (1) project goals and objectives;

- (2) a statement of existing water quality conditions and problems;

(3) identification and summary of work plan activities that the grant would make possible;

(4) a schedule of work plan activities;

(5) a preliminary monitoring plan; and

(6) a preliminary work plan budget; and

H. 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;

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 is part of a local water plan;

D. letters of support from each participating local unit of government, agency, and organization that identify their role in project implementation and their contribution to the local share of project implementation costs;

E. a detailed preliminary 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; and

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

**Statutory Authority:** *MS s 103F.745; 115.10*

**History:** *13 SR 661; 16 SR 584*

#### 7076.0160 REJECTION OF GRANT APPLICATION.

Subpart 1. **Grounds.** An application for a resource investigation 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 must reapply in a subsequent application period to be considered for a grant.

**Statutory Authority:** *MS s 103F.745; 115.10*

**History:** *13 SR 661; 16 SR 584*

#### 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 resource investigation grant applications must be ranked separately from the project implementation grant applications.

**Subp. 2. Priority points for resource investigation grant applications.** The agency and the project coordination team must use the following criteria to determine the number of priority points to be awarded in the evaluation of each resource investigation grant application. Each project shall receive either zero, two and one-half, five, seven and one-half, or ten points under each of the following criteria, depending on how well the project satisfies the criterion. The number of points awarded under each of the five criterion assigned by the agency and the project coordination team 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.

A. The criteria for the agency are as follows:

(1) the extent to which the proposed project demonstrates a high potential for project success based on the level of definition of the preliminary work plan for project goals and objectives, work activities, and project organization and management structure;

(2) the extent to which the proposed project demonstrates effective and efficient use of state financial resources based on the proposed budget and work plan;

(3) the extent to which the water of concern is identified as a priority water in the local water plan;

(4) the severity of water quality impairment or threat as compared to expectations for the least impacted waters in that ecoregion; and

(5) the extent the proposed project demonstrates the likelihood of water quality protection or improvement.

B. The criteria for the project coordination team are as follows:

(1) the extent to which the proposed project demonstrates a high potential for project success based on community support and involvement;

(2) the extent to which the proposed project includes coordination and cooperation of federal, state, and local agencies and units of government for water quality protection or improvement;

(3) the extent to which the water of concern in the proposed project is of state and regional significance and priority;

(4) the extent to which the proposed project complements the existing efforts of local, state, and federal programs; and

(5) the likelihood that the proposed project will serve as a demonstration for water quality protection or improvement and provide useful information for the geographic area.

**Subp. 3. Priority points for project implementation grant applications.** The agency and the project coordination team must use the following criteria to determine the number of priority points to be awarded in the evaluation of each project implementation grant application. Each project shall receive either zero, two and one-half, five, seven and one-half, or ten points under each of the following criteria, depending on how well the project satisfies the criterion. The number of points under each of the five criterion assigned by the agency and the project coordination team 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.

A. The agency criteria are as follows:

(1) the extent to which the proposed project demonstrates a high potential for project success based on the level of definition of the work plan for project goals and objectives, work activities, budget, and project organization and management structure;

(2) the extent to which the proposed project employs best management practices which provide a technically feasible means to abate or prevent water pollution from nonpoint sources;

(3) the extent to which the proposed project implementation activities will result in water quality protection or improvement;

(4) the extent to which the proposed project maximizes water quality protection or improvement relative to the cost of project implementation; and

(5) the extent to which the proposed project demonstrates a high potential for project success based on the local capability, organization, and authority to carry out the identified activities.

B. The project coordination team criteria are as follows:

(1) the extent to which the proposed project demonstrates a high potential for project success based on community support and involvement;

(2) the extent to which the proposed project includes coordination and cooperation of federal, state, and local agencies and units of government for water quality protection or improvement;

(3) the extent to which the water of concern in the proposed project is of state and regional significance and priority;

(4) the extent to which the proposed project indicates a commitment to official controls, programs, and activities that are a long-term commitment to water quality protection or improvement; and

(5) the likelihood that the proposed project will serve as a demonstration of water quality protection or improvement and provide useful information for the geographic area.

**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.

**Statutory Authority:** *MS s 103F.745; 115.10*

**History:** *13 SR 661; 16 SR 584*

#### **7076.0180 ALLOCATION OF FUNDING.**

**Subpart 1. Project continuation grant amendments.** Each year, 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 resource investigation 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 resource investigation 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. Resource investigation; project 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 resource investigation and project implementation grants. In determining the allocation of funds between resource investigation 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 resource investigation 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 103F.745; 115.10*

**History:** *13 SR 661; 16 SR 584*

#### **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 resource investigation 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 resource investigation and project implementation applications within the limits of available funds established under part 7076.0180, subpart 2. A project that receives less than 50 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 103F.745; 115.10*

**History:** *13 SR 661; 16 SR 584*

#### **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 June of the calendar 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. A project sponsor who fails to submit a request for a project continuation grant amendment in June of the calendar 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.** Subject to the availability of funds, 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 103F.745; 115.10*

**History:** *13 SR 661; 16 SR 584*

#### **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 resource investigation or project implementation.

Subp. 2. **Grant period.** The grant period for a resource investigation grant will be for up to three years. The grant period for a project implementation grant will be for a period of three years and may be extended up to an additional three years with agency approval of a request for a project continuation grant amendment according to part 7076.0200.

Subp. 3. **Grant contract.** The project sponsor must enter into a grant contract with the agency to receive grant funds. The grant 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 at least three years from the date of termination of the grant contract. Records relating to the installation, operation, and maintenance of best management practices shall be maintained for three years beyond the design or useful life, whichever is longer.



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. **Quarterly update.** During each year the grant is in effect, the project sponsor shall prepare for quarterly submittal or presentation to the commissioner an update of project activities and project expenditures.

Subp. 8. **Work plan.** The project sponsor shall prepare a work plan according to part 7076.0230 and submit it to the commissioner. The monitoring plan component of the work plan must be reviewed and revised annually and submitted to the commissioner by February 1 of each year during the project period of the grant contract.

Subp. 9. **Diagnostic study and implementation plan.** The project sponsor for a resource investigation 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 provided to the project sponsor for grant eligible project activities started before the grant contract period or after the end of the contract period.

**Statutory Authority:** *MS s 103F.745; 115.10*

**History:** *13 SR 661; 16 SR 584*

## 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 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. Grant increase amendments shall be subject to the availability of funds.

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

**Statutory Authority:** *MS s 103F.745; 115.10*

**History:** *13 SR 661; 16 SR 584*

**7076.0230 WORK PLAN.**

Subpart 1. **Requirements.** The work plan required to be submitted to the commissioner, in a format specified by the commissioner, as a condition of the grant must include the requirements in item A for resource investigation grants and the requirements in item B for project implementation grants.

A. For resource investigation grants, the sponsor shall prepare and submit a detailed work plan that includes the following:

(1) a description of the water of concern, the project area, and the existing and desired resource uses;

(2) a description of existing and suspected or potential water quality problems;

(3) a description of specified goals for project results, for water quality characterization and quantitative analysis research and assessment, and for citizen education;

(4) an outline that identifies specific tasks to be completed during the project, including the tasks needed to fulfill the requirements under parts 7076.0240 and 7076.0250, the individuals responsible for the tasks, and the dates for task initiation and completion;

(5) a monitoring plan as described in subpart 1a;

(6) a list of predictive and diagnostic computer or statistically based models that are to be used for the project and a description and statistical definition of predictive and diagnostic uncertainties;

(7) a quality assurance plan for data gathering and analyzing;

(8) detailed budgets; and

(9) a resolution from each participating local unit of government, agency, and organization that identifies their role in the project and their contribution to the local share of the project costs.

B. For project implementation grants, the sponsor shall prepare and submit a detailed work plan that includes any necessary revisions to the approved implementation plan and the following:

(1) a revised activity schedule for implementation activities;

(2) a revised implementation budget;

(3) a quality assurance plan for construction activities;

(4) a best management practice operation and maintenance plan;

(5) a monitoring plan as required in subpart 1a that has been revised to evaluate the effectiveness of best management practices and the improvement of water quality;

(6) a list of predictive and diagnostic computer or statistically based models that are to be used for the project and a description and statistical definition of predictive and diagnostic uncertainties;

(7) permits and authorities for implementation activities; and

(8) a resolution from each participating local unit of government, agency, and organization that identifies their role in the project and their contribution to the local share of the project costs.

Subp. 1a. **Monitoring plan.** A monitoring plan is a component of the work plan. For both resource investigation and project implementation grants, the sponsor shall prepare a monitoring plan that:

A. develops monitoring objectives based on project goals;

B. defines the information needs for water quality monitoring;

C. defines the statistical methods needed to address the monitoring objectives;

D. sets the data requirements that are to be met for meaningful statistical analysis to be completed;

E. delineates and provides rationale for the selection of monitoring sites, frequency, parameters, and sampling protocols;

F. identifies laboratories that will be doing analyses for the project, explains their quality assurance and quality control procedures, and provides the certification number as-

signed by the Department of Health to prove the laboratories are fulfilling the requirements under chapter 4740; and

G. outlines a plan to analyze monitoring data and to use the data to assess the project area, water and pollutant loading, and alternative best management practices.

Subp. 2. **Review.** The commissioner will review the work plan and approve it or identify deficiencies in writing within 45 days of its receipt.

Subp. 3. [Repealed, 16 SR 584]

**Statutory Authority:** *MS s 103F.745; 115.10*

**History:** *13 SR 661; 16 SR 584*

#### 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, predictive and diagnostic models, and other tools used to prepare and complete the diagnostic study.

Subp. 1a. **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.

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, total 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 a nutrient budget 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 sol-

ids, 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, porosity, 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 at a scale appropriate to the project;

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;

(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 and parts 7023.9000 to 7023.9050;

(14) wetlands identified under the National Wetlands Inventory, an inventory of drained wetlands, 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;

(23) a summary of recreational land uses;

(24) a list of bulk pesticide and fertilizer handling facilities;

(25) a list of commercial and industrial facilities with on-site hazardous materials or wastes;

(26) a list of transportation corridors such as railroads, pipelines, and highways;

(27) a list of operating wells whose construction or maintenance may cause them to serve as conduits for contaminations to recharge groundwater; and

(28) a summary of other potential sources of groundwater contamination;

### 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, aquifer source, and amount of water used;

(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. [Repealed, 16 SR 584]

**Statutory Authority:** *MS s 103F.745; 115.10*

**History:** *13 SR 661; 16 SR 584; 18 SR 614*

#### **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;

G. a plan to maintain project goals and accomplishments and prevent further non-point source pollution;

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

1. 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 non-point 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. **Initial payment.** After the commissioner of finance has signed the grant contract between the agency and the project sponsor, the agency shall provide to the project sponsor 25 percent of the grant award provided in the grant contract.

Subp. 2. **Second payment.** Upon written approval by the commissioner of the work plan required under part 7076.0210, subpart 8, the agency shall provide to the project sponsor 35 percent of the grant award provided in the grant contract. The cumulative assistance paid to the project sponsor shall equal 60 percent of the grant award.

Subp. 3. **Project review and budget adjustment.** Upon expenditure of 50 percent of total eligible project costs by the project sponsor, the project sponsor shall submit to the commissioner for review and approval a detailed summary of project expenditures and completed work activities. The commissioner shall review the summary to verify cost eligibility and acceptable completion of work plan activities and to compare actual expenditures with the approved project work plan budget.

Subp. 4. **Third payment.** After the requirements of subpart 3 have been met, the agency shall provide to the project sponsor up to 30 percent of the grant award. The payment shall be less than 30 percent of the grant award to compensate for the final payment withholding required under subpart 6.

Subp. 5. **Payment adjustment upon grant contract amendment.** When the total grant assistance amount authorized for a project is increased by a grant contract amendment, the agency shall pay the project sponsor the additional amount of grant assistance that the project sponsor is entitled to receive under subparts 1 to 4.

Subp. 6. **Final payment.** The agency shall withhold a minimum of ten percent of the grant award until the agency is satisfied that the project has been completed according to the terms of the grant contract and parts 7076.0100 to 7076.0290. More than ten percent of the grant award shall be withheld if the costs necessary to complete the project are less than those identified in the grant contract. Ten percent of the grant award shall be withheld if the costs necessary to complete the project are equal to or exceed the costs identified in the grant contract.

Subp. 7. **Payment option.** Project sponsors that received grant awards before October 1, 1990, may have the grant payment conditions specified under subparts 1 to 6 or have grant payments made on a reimbursement basis. If reimbursements are desired, a project sponsor shall submit a written request for this option to the commissioner. Reimbursement payments shall be made according to items A to C.

A. 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.

B. 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 according to the terms of the grant contract and parts 7076.0100 to 7076.0290.

C. 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 may not be released until the agency determines that the project sponsor has corrected the deficiencies causing noncompliance.

**Statutory Authority:** *MS s 103F.745; 115.10*

**History:** *13 SR 661; 16 SR 584*

#### **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*