

CHAPTER 7076

MINNESOTA POLLUTION CONTROL AGENCY

CLEAN WATER PARTNERSHIP FINANCIAL ASSISTANCE

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7076.0100 PURPOSE.

This chapter provides for the administration of the state clean water partnership financial assistance program and the federal nonpoint source management program as provided by the federal Water Pollution Control Act, United States Code, title 33, sections 1329 and 1330, as amended, commonly referred to as sections 319 and 320 of the federal Clean Water Act. Parts 7076.0100 to 7076.0290 implement these programs by establishing the conditions under which the agency may award state matching grants, provide technical assistance for the development and implementation of nonpoint source projects, and award low-interest loans from the state clean water revolving fund for the implementation of nonpoint source projects.

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

History: *13 SR 661; 20 SR 1245; L 2008 c 277 art 3 s 4; 37 SR 1334*

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 or delegate.

Subp. 4a. **Financial assistance.** "Financial assistance" means a project grant or project loan.

Subp. 5. [Repealed, 16 SR 584]

Subp. 5a. **Loan sponsor.** "Loan sponsor" means a local unit of government that enters into a loan contract with the agency. There may be more than one loan sponsor for a project.

Subp. 6. **Local share.** "Local share" means the contributions of a local unit of government and project partners to the eligible cost of a project, including the value of cash expenditures; project loans used on eligible project activities; 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. 8a. **Measurable outcomes.** "Measurable outcomes" has the meaning given under Minnesota Statutes, section 3.303, subdivision 10, paragraph (b).

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" means ordinances and regulations that control the physical development of the whole or part of a local unit of government or that implement the general objectives of the local unit of government.

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.

Subp. 14. [Repealed, 20 SR 1245]

Subp. 15. [Repealed, 37 SR 1334]

Subp. 16. [Repealed, 16 SR 584]

Subp. 17. [Repealed, 16 SR 584]

Subp. 18. [Repealed, 37 SR 1334]

Subp. 18a. [Repealed, 37 SR 1334]

Subp. 19. **Project grant or grant.** "Project grant" or "grant" means a grant from the agency to the project sponsor for the implementation of a nonpoint source project.

Subp. 19a. **Project loan.** "Project loan" or "loan" means a loan from the agency to the loan sponsor for the implementation of a nonpoint source project.

Subp. 19b. **Project loan set rate.** "Project loan set rate" means the prime interest rate as published in the current Wall Street Journal.

Subp. 19c. **Project period.** "Project period" means a three-year period as found in a project contract for completion of project activities defined in a project work plan. This period may be extended an additional year upon written approval by the commissioner.

Subp. 19d. **Project partners.** "Project partners" means local individuals and local organizations that will assist the project sponsor in the development and implementation of the project.

Subp. 20. **Project sponsor.** "Project sponsor" means the local unit of government that is responsible for development and implementation of the project, applies for financial assistance, and is a party to all grant and loan contracts entered into by the agency to provide financial assistance.

Subp. 20a. [Repealed, 37 SR 1334]

Subp. 20b. [Repealed, 37 SR 1334]

Subp. 20c. **Second-tier borrower.** "Second-tier borrower" means a person who receives a second-tier loan from a loan sponsor.

Subp. 20d. **Second-tier loan.** "Second-tier loan" means a loan made by the loan sponsor, using project loan funds, for implementation of project activities by a person other than the loan sponsor.

Subp. 20e. **State revolving fund.** "State revolving fund" means the state clean water revolving fund created by Minnesota Statutes, section 446A.07.

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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 surface water or groundwater of the state which the project is focused on protecting, enhancing, or restoring.

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.755, and is approved by the commissioner.

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

History: *13 SR 661; 16 SR 584; 20 SR 1245; L 2008 c 277 art 3 s 4; L 2011 c 107 s 107; 37 SR 1334*

7076.0120 AVAILABLE ASSISTANCE.

Subpart 1. **Grants.** The grants available for nonpoint source projects are for a maximum of 50 percent of the eligible cost of the project.

Subp. 1a. **Loans.** Loans may cover up to 100 percent of the eligible costs of the project or may be used to finance the local share of a project grant.

Subp. 2. **Technical assistance.** Within the limits of available resources, the agency may provide technical assistance to local units of government in order to ensure efficient and effective development and implementation of projects.

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

History: *13 SR 661; 16 SR 584; 20 SR 1245; 37 SR 1334*

7076.0130 ELIGIBILITY CRITERIA.

Subpart 1. **Grant-eligible proposers.** 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 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. an approved local water plan that addresses the water of concern.

Subp. 1a. **Loan-eligible proposers.** Only local units of government that meet the requirements of subpart 1 are eligible to apply for loans and receive technical assistance. A local unit of government is eligible to receive a loan if it has the following:

- A. the ability to pledge its full faith and credit to ensure repayment of a project loan;
- B. the authority to generate cash revenues for the repayment of a loan; and
- C. the authority to enter into a loan agreement with the agency.

If the local unit of government submitting the proposal does not meet the criteria in items A to C, it must submit a resolution from at least one local unit of government that does meet the criteria stating that the loan-eligible local unit of government resolves to participate in the project as a loan sponsor.

Subp. 2. **Eligible costs.** Project costs are eligible for financial assistance if they are reasonable, necessary, and allocable to the project. The dredging of harbors, lakes, ditches, constructed wetlands, and existing sedimentation basins; sewage treatment system upgrades; and the use of ferric chloride, aluminum sulfate, or other chemicals to precipitate

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phosphorus are eligible for loan funds but are not eligible for grant funds. In addition, costs related to any of the following activities are eligible for financial assistance:

- 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 consistent with the federal Water Pollution Control Act, United States Code, title 33, sections 1329 and 1330, referred to as sections 319 and 320 of the federal Clean Water Act, as amended;
- D. development, review, and inspection of procedures for the installation, operation, and maintenance of best management practices;
- E. the costs of implementation of best management practices for animal feedlot operations if the best management practice installation is not related to a criminal enforcement action or a civil enforcement action involving financial penalties;
- F. development and implementation of public education materials and activities;
- G. development and implementation of official controls;
- H. acquisition of easements and property; and
- I. other activities determined by the agency or established by federal regulation to be necessary to carry out 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 or before the loan contract has been signed by the commissioner and the commissioner of management and budget. In addition, the following costs are ineligible for financial assistance whether or not they relate to the activities in subpart 2:

- A. operation and maintenance of best management practices;
- B. activities regulated by the Petroleum Tank Release Cleanup Act, Minnesota Statutes, chapter 115C; the Environmental Response Compensation and Liability Act, Minnesota Statutes, chapter 115B; the Agricultural Chemical Liability Act, Minnesota Statutes, chapter 18D; 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;
- C. activities regulated by the national pollutant discharge elimination system permit program, parts 7001.1000 to 7001.1100, except that the following are eligible costs:
 - (1) the costs of outreach, technical assistance, and education activities concerning animal waste management, and the costs of best management practices for animal feedlot operations are eligible if the implementation activities are part of an eligible watershed or groundwater project and if the best management practice installation is not related to a criminal enforcement action or a civil enforcement action involving financial penalties; and
 - (2) the costs of outreach, technical assistance, implementation of source control and runoff control best management practices, and education activities related to storm water control;
- 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 or loans for publicly owned treatment works;
- F. regulated practices to control spills of pesticides, fertilizer, petroleum, and related materials from bulk storage facilities;

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- 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, excluding farming operations occurring on the farm itself;
- I. active and inactive mining activities;
- J. building and utility construction;
- K. highway and road construction;
- L. activities intended primarily for flood control; and
- M. activities that violate local, state, and federal statutes, rules, and regulations.

Subp. 4. **Eligible local share for project grants.** Any grant- or loan-eligible project costs as described in subparts 2 and 3 that are not funded through a project grant are eligible as local share. At least 30 percent of the project costs must be derived from nonstate and nonfederal sources. Project loans are considered nonstate and nonfederal sources for the purposes of this subpart. Costs incurred by a land occupier or project partner for the installation of best management practices may be considered a part of the local share provided the following conditions are met:

- A. the primary purpose of the best management practices is for protection, enhancement, or restoration of water quality;
- B. any structural best management practices must be designed for a minimum effective life of ten years;
- C. any equipment purchased for operational best management practices must have a minimum effective life of ten years and be maintained or replaced by the land occupier during this period of time, or there must be a plan approved by the commissioner scheduling the phase-out of the operational best management practices; 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; 20 SR 1245; L 2009 c 101 art 2 s 109; 37 SR 1334*

7076.0140 NOTICE OF FINANCIAL ASSISTANCE AVAILABILITY.

Subpart 1. **Notice.** The commissioner will publish in the State Register a notice that proposals for project grants and loans will be accepted whenever the commissioner determines that funds are available to award the financial assistance. The notice will contain the requirements necessary for the proposal and a deadline for proposal submittal, which must be no less than 60 days from the date of publication.

Subp. 2. [Repealed, 37 SR 1334]

Subp. 3. **Financial assistance proposal periods.** The commissioner must establish at least one financial assistance proposal period each calendar year, if funds are available.

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

History: *13 SR 661; 16 SR 584; 20 SR 1245; 37 SR 1334*

7076.0150 FINANCIAL ASSISTANCE PROPOSAL.

Subpart 1. **General requirements.** The financial assistance proposal must be submitted by the project sponsor on an agency form designed to comply with subpart 2.

Subp. 2. **Proposal requirements.** A project proposal must contain the following information:

- A. a resolution by the project sponsor, authorizing the filing of the proposal and designating an official authorized to execute the grant and loan proposal;

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B. written statement that the project sponsor has consulted with the local water planning authority, soil and water conservation districts, and watershed districts in the project area in preparing the proposal;

C. identification of local units of government, agencies, and organizations that will be involved in the project;

D. an estimated project budget and the amount of grant and loan funding requested, based on estimated project costs;

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

F. preliminary goals and objectives;

G. a statement of existing water quality conditions and problems and the existing and desired uses of the water of concern;

H. an identification and summary of activities that the grant and loan would make possible;

I. a preliminary schedule of project activities;

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

K. if the proposer is requesting a loan:

(1) identification of the dedicated sources of revenue to be used for repayment of the project loan from the agency;

(2) a resolution from each loan sponsor authorizing the filing of the proposal, stating:

(a) the total project loan amount requested; and

(b) the amount of the total loan that the loan sponsor is requesting which, when added to all other loan sponsor requests, must equal the total project loan request; and

(3) an opinion and supporting documentation from the project sponsor's attorney stating that the project sponsor and participating local units of government have the legal authority to conduct the project.

Subp. 3. [Repealed, 37 SR 1334]

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

History: *13 SR 661; 16 SR 584; 20 SR 1245; 37 SR 1334*

7076.0160 REJECTION OF FINANCIAL ASSISTANCE PROPOSAL.

Subpart 1. **Grounds.** A proposal for financial assistance shall be rejected by the commissioner for the following reasons:

A. an ineligible proposer;

B. ineligible costs;

C. a late submittal;

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

E. recent agency experience of grant noncompliance by the local unit of government; or

F. an incomplete proposal.

Subp. 2. **Procedure.** The commissioner shall review each financial assistance proposal within 30 days after the deadline for proposal submittal. The commissioner shall notify each rejected proposer of the rejection of its proposal and the reasons for the rejection, as provided under subpart 1.

Subp. 3. **Effect of rejection.** A proposer whose proposal is rejected may reapply in a subsequent proposal period to be considered for financial assistance.

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

History: *13 SR 661; 16 SR 584; 20 SR 1245; 37 SR 1334*

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7076.0170 PROJECT RANKING.

Subpart 1. **Process of ranking.** Upon completion of the commissioner's review of the proposals for acceptability, the agency shall rank the acceptable proposals in order of priority. Each project for which an acceptable proposal has been submitted must be awarded the number of priority points to which the project is entitled under subpart 2. The proposal with the highest number of priority points will be given the highest priority. All proposals will be given a ranking depending on the number of points awarded.

Subp. 2. **Priority points for project proposals.**

A. The agency must use the criteria in item B to determine the number of priority points to be awarded in the evaluation of each project proposal. Each project shall receive a whole number from zero to ten under each of the following criteria, depending on how well the project satisfies each criteria. The number of points awarded under each of the criteria assigned by the agency 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.

B. The criteria for the project proposals are as follows:

- (1) the extent to which the project proposal clearly identifies water quality concerns, goals, and objectives;
- (2) the extent to which the proposed project demonstrates a high potential for project success based on participation, coordination, and cooperation between local units of government, public agencies, and other local stakeholders within the project area;
- (3) the extent to which the proposed project activities are technically feasible relative to the cost of the project; and
- (4) the extent to which the proposed project activities will lead to protection, enhancement, or restoration of the water of concern.

Subp. 3. [Repealed, 37 SR 1334]

Subp. 4. [Repealed, 37 SR 1334]

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

History: *13 SR 661; 16 SR 584; 20 SR 1245; 37 SR 1334*

7076.0180 ALLOCATION OF FUNDING.

Subpart 1. [Repealed, 37 SR 1334]

Subp. 2. **Grant fund allocation.** Within 60 days following the close of a proposal period, the agency shall determine how much of the funds will be made available for project 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 and other factors relating to the agency's ability to ensure that money will be available for upcoming projects. If the agency is appropriated grant funding for special purposes, that funding can be set aside for a designated use.

Subp. 3. [Repealed, 37 SR 1334]

Subp. 4. **Loan fund allocation.** Within 60 days following the close of a proposal period, the agency shall determine how much of the loan funding will be made available for project loan awards. In deciding how much money to make available for new loan awards, the agency shall consider the necessity to have money available for subsequent loan periods and other factors relating to the agency's ability to ensure that money will be available for upcoming projects.

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

History: *13 SR 661; 16 SR 584; 20 SR 1245; 37 SR 1334*

7076.0190 SELECTION OF PROJECTS FOR AWARD.

Subpart 1. **Ranking.** The agency shall complete its ranking of all projects for which an acceptable proposal has been submitted within 60 days of the close of the proposal period.

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Subp. 2. **Projects funded.** The agency shall offer financial assistance to the highest priority proposals within the limits of available funds established under part 7076.0180. A project that receives 50 percent or less of the available points will not be considered for award of funds.

Subp. 3. **Agency decision.** All decisions of the agency in ranking projects and awarding financial assistance must be made by the commissioner.

Subp. 4. **Timing.** The agency shall make its decision on fund allocation, project ranking, and projects to which financial assistance will be awarded within 60 days following the close of the proposal period. After the decision is made, a proposer may request a written explanation of the priority points awarded the proposal by the agency.

Subp. 5. **Reapplication.** A proposer whose proposal is not awarded financial assistance may reapply in a subsequent proposal period to be considered for financial assistance.

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

History: *13 SR 661; 16 SR 584; 20 SR 1245; 37 SR 1334*

7076.0200 [Repealed, 37 SR 1334]

7076.0210 GRANT CONDITIONS.

Subpart 1. **Amount.** A grant may be made for a maximum of 50 percent of the eligible cost of the project. When awarding grants, the agency may award the project all or part of the grant request identified in the proposal.

Subp. 2. [Repealed, 20 SR 1245]

Subp. 3. **Grant contract.** The project sponsor must enter into a grant contract with the agency to receive grant funds. The grant contract may be amended upon agreement of the agency and the project sponsor and execution by all the parties that signed the original contract, or their successors in office. Grant increase amendments shall be subject to the availability of funds. The project period for a grant shall be for up to three years, with a possible one-year extension upon approval by the commissioner. The grant contract must:

- A. establish the terms and conditions of the grant;
- B. provide that the project sponsor may enter into subcontracts, 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 commissioner in a format and schedule prescribed by the commissioner; and
- E. incorporate terms and conditions required by federal or state statutes, rules, and regulations.

Subp. 4. **Records.** The project sponsor shall maintain all records relating to the receipt and expenditure of grant funds for at least six 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 of the practice.

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 reasonable time and location by the commissioner, legislative auditor, or state auditor.

Subp. 6. [Repealed, 20 SR 1245]

Subp. 7. [Repealed, 20 SR 1245]

Subp. 8. [Repealed, 20 SR 1245]

Subp. 9. [Repealed, 20 SR 1245]

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Subp. 10. **Eligible costs.** No grant funds shall be provided to the project sponsor for grant eligible project activities started before the project period established in the grant contract or continuing after the end of the project period established in the grant contract.

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

History: *13 SR 661; 16 SR 584; 20 SR 1245; 37 SR 1334*

7076.0215 LOAN CONDITIONS.

Subpart 1. **Amount.** A loan may be made for up to 100 percent of the eligible cost of a project, or for all or part of the local share of a project grant. When awarding loans, the agency may award the project all or part of the loan request identified in the proposal.

Subp. 2. **Interest rate.** The interest rate of the project loan must be at or below the project loan set rate. The commissioner shall determine the project loan interest rate for each application cycle based on current market conditions, the project loan set rate, and the need to maintain the fiscal integrity of the state revolving fund.

Subp. 3. **Second-tier loans.** A loan sponsor awarded a loan by the agency may use the funds it receives to provide loans to second-tier borrowers. The loan sponsor must provide the information and assurances required in the loan contract as described in subpart 5.

Subp. 4. **Repayment.** Repayment of loan funds received must begin not more than one year after the end of the project period, and the loan must be fully amortized not later than 20 years after the end of the project period. Loan repayments must be remitted to the agency at least annually, according to a schedule set forth in the loan contract.

Subp. 5. **Loan contract.** To receive loan funds, the project sponsor and one or more loan sponsors must enter into a loan contract with the agency. A loan contract may be amended upon agreement of the agency, the project sponsor, and the loan sponsor and executed by all parties that signed the original contract, or their successors in office. Loan increase amendments are subject to the availability of funds. The project period for a loan shall be for up to three years, with a possible one-year extension upon approval by the commissioner. All loan contracts must:

- A. establish the terms and conditions of the loan;
- B. require the loan sponsor to undertake an irrevocable obligation and secure the project loan with its full faith and credit, and include an opinion from a bond counsel attorney stating that the loan sponsor has the authority to pledge its full faith and credit;
- C. establish default provisions;
- D. establish the roles and responsibilities of the project sponsor and any loan sponsors in regards to the coordination and management of the project;
- E. provide that any subcontracts entered into by the project sponsor or loan sponsors to complete the work specified in the loan contract must include the terms and conditions specified by the agency;
- F. require that the project sponsor submit periodic progress reports and a final report to the commissioner in a form and schedule prescribed by the commissioner;
- G. establish the guidelines for and management of a second-tier loan program, if any;
- H. provide that the agency is not responsible for cost overruns; and
- I. incorporate terms and conditions required by federal or state statutes, rules, and regulations.

Subp. 6. **Records.** The project sponsor and any loan sponsors must maintain all records relating to the receipt and expenditure of loan funds for at least six years from the date of termination of the loan contract, according to the responsibilities identified in the loan contract. Records relating to the installation, operation, and maintenance of best management practices must be maintained for three years beyond the design or useful life of the practice.

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Subp. 7. **Audit.** The project sponsor and any loan sponsors must obtain audits in accordance with the Single Audit Act of 1984, United States Code, title 31, sections 7501 to 7507, and federal Environmental Protection Agency regulations, including Code of Federal Regulations, title 40, section 31.26, as applicable. All books, records, documents, and accounting procedures and practices of the project sponsor and any loan sponsors relevant to this program may be examined at any reasonable time and location by the commissioner, the legislative auditor, the state auditor, or the Environmental Protection Agency.

Subp. 8. **Eligible costs.** No loan funds shall be provided to the loan sponsor for loan-eligible project activities started before the project period established in the loan contract, or continuing after the end of the project period established in the loan contract.

Statutory Authority: *MS s 103F.745*

History: *20 SR 1245; 37 SR 1334*

7076.0220 [Repealed, 20 SR 1245]

7076.0225 WORK PLAN AND REPORTS FOR PROJECT GRANTS AND LOANS.

Subpart 1. [Repealed, 37 SR 1334]

Subp. 1a. **Work plan.** The project sponsor, in cooperation with agency staff, must prepare a work plan after the grant and loan is awarded, in a form prescribed by the commissioner, and must submit the work plan to the commissioner for approval. The work plan must provide measurable outcomes. When selecting best management practices for inclusion in a project, the project sponsor shall consider each of 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 will 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;
- E. whether the best management practice is reasonably suited for the individual site or priority management area; and
- F. the likelihood of adoption of the best management practice.

Subp. 2. **Semiannual progress report.** The project sponsor must submit a progress report to the commissioner, in a form prescribed by the commissioner, by August 1 and February 1 for the six-month period of January through June and July through December, respectively, of each calendar year of the project period.

Subp. 3. [Repealed, 37 SR 1334]

Subp. 3a. **Project review and budget adjustment.** Upon expenditure of 50 percent of the project grant or loan, the project sponsor must 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, to compare actual expenditures with the approved project work plan budget, and to verify that the terms of the grant or loan contract are being met.

Subp. 4. [Repealed, 37 SR 1334]

Subp. 5. **Project final report.** Upon completion of the project, and in a form prescribed by the commissioner, the project sponsor must submit to the commissioner for review and approval a detailed summary of project expenditures, completed work activities, and measurable outcomes. The commissioner shall review the summary to verify cost eligibility and acceptable completion of work plan activities, to compare actual expenditures with the approved project work plan budget, and to verify that the terms of the grant or loan contract are being met. If the commissioner finds that any funds were used for ineligible

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project costs, those funds must be returned to the agency, along with any interest or fees, as outlined in the contract.

Statutory Authority: *MS s 103F.745*

History: *20 SR 1245; 37 SR 1334*

7076.0230 Subpart 1. [Repealed, 37 SR 1334]

Subp. 1a. [Repealed, 37 SR 1334]

Subp. 2. [Repealed, 37 SR 1334]

Subp. 3. [Repealed, 16 SR 584]

7076.0240 Subpart 1. [Repealed, 37 SR 1334]

Subp. 1a. [Repealed, 20 SR 1245]

Subp. 2. [Repealed, 37 SR 1334]

Subp. 3. [Repealed, 37 SR 1334]

Subp. 4. [Repealed, 37 SR 1334]

Subp. 5. [Repealed, 16 SR 584]

7076.0250 [Repealed, 37 SR 1334]

7076.0260 [Repealed, 37 SR 1334]

7076.0270 [Repealed, 37 SR 1334]

7076.0280 GRANT PAYMENTS.

Subpart 1. **Initial payment.** After the commissioner has signed the grant contract between the agency and the project sponsor, and contingent upon the availability of grant funds, the agency shall provide to the project sponsor 25 percent of the grant award provided in the grant contract. After the project sponsor has spent this amount, the sponsor shall provide, in a form prescribed by the commissioner, an accounting for the grant and match expenditures to the commissioner for review.

Subp. 2. [Repealed, 37 SR 1334]

Subp. 3. [Repealed, 37 SR 1334]

Subp. 4. [Repealed, 37 SR 1334]

Subp. 5. [Repealed, 37 SR 1334]

Subp. 5a. **Reimbursement payments.** Following approval of the accounting in subpart 1, the agency shall promptly pay the project sponsor for any expenses incurred after the sponsor presents an itemized invoice, in a form prescribed by the commissioner, for work actually performed.

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, after the project review outlined in part 7076.0225, subpart 3a, the costs necessary to complete the project are less than those identified in the grant contract.

Subp. 7. [Repealed, 20 SR 1245]

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

History: *13 SR 661; 16 SR 584; 20 SR 1245; L 2009 c 101 art 2 s 109; 37 SR 1334*

7076.0285 LOAN PAYMENTS.

Subpart 1. **Payments.** The project sponsor or loan sponsor must submit to the agency a certification of incurred costs in a form and schedule prescribed by the agency, which certifies that eligible costs have been incurred, but not necessarily paid, by the project sponsor or loan sponsor for work on the project. Upon receiving the certification, the agency must

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pay the project sponsor or loan sponsor if the sponsor is in compliance with the conditions of the loan contract and the requirements of parts 7076.0100 to 7076.0290.

Subp. 2. [Repealed, 37 SR 1334]

Subp. 3. [Repealed, 37 SR 1334]

Statutory Authority: *MS s 103F.745*

History: *20 SR 1245; L 2009 c 101 art 2 s 109; 37 SR 1334*

7076.0290 RESCISSION OF FINANCIAL ASSISTANCE.

The agency may rescind and seek repayment of a financial assistance award if the project is not being completed in accordance with the terms and conditions of the grant or loan contract, including time schedules.

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

History: *13 SR 661; 20 SR 1245*