

1 Pollution Control Agency

2 Water Quality Division

3

4 Adopted Permanent Rules Relating to Clean Water Partnership

5

6 Rules as Adopted

7

CHAPTER 7076

8

MINNESOTA POLLUTION CONTROL AGENCY

9

WATER QUALITY DIVISION

10

CLEAN WATER PARTNERSHIP GRANTS

11 7076.0100 PURPOSE.

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

20 7076.0110 DEFINITIONS.

21 Subpart 1. **Scope.** The terms used in parts 7076.0100 to
22 7076.0290 have the meanings given them in Minnesota Statutes,
23 chapters 115 and 116, and rules adopted under those chapters and
24 the meanings given them in this part. If terms defined in this
25 part conflict with the definitions in Minnesota Statutes,
26 chapters 115 and 116 and the rules adopted under those chapters,
27 the definitions in this part govern.

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

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

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

35 Subp. 5. **Land occupier.** "Land occupier" means a person

1 who possesses lands in the project area whether as owner,
2 lessee, renter, tenant, or otherwise, including successors of a
3 land occupier who received a payment during the minimum
4 effective life of a best management practice.

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

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

13 Subp. 8. **Local water plan.** "Local water plan" means a
14 comprehensive water plan authorized under Minnesota Statutes,
15 chapter 110B; a surface water management plan required under
16 Minnesota Statutes, section 473.878; an overall plan required
17 under Minnesota Statutes, chapter 112; or until July 1, 1991,
18 any other local plan that provides an inventory of existing
19 physical and hydrologic information on the area, a general
20 identification of water quality problems and goals, and that
21 demonstrates a local commitment to water quality protection or
22 improvement.

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

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

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

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

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

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

7 Subp. 15. **Project coordination team.** "Project
8 coordination team" means the public interagency group
9 established in Minnesota Statutes, section 115.103, subdivision
10 1.

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

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

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

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

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

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

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

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

1 7076.0120 AVAILABLE ASSISTANCE.

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

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

15 7076.0130 ELIGIBILITY CRITERIA.

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

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

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

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

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

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

1 B. fiscal and management activities including report
2 preparation;

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

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

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

10 F. development and implementation of official
11 controls;

12 G. acquisition of easements and property; and

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

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

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

22 B. operation and maintenance of best management
23 practices;

24 C. activities regulated by the National Pollutant
25 Discharge Elimination System permit program, parts 7001.1000 to
26 7001.1100; the State Disposal System permit program; the
27 Petroleum Tank Release Clean-up Act, Minnesota Statutes, chapter
28 115C; the Environmental Compensation and Liability Act,
29 Minnesota Statutes, chapter 115B; the Comprehensive
30 Environmental Response, Compensation, and Liability Act, United
31 States Code, title 42, sections 9601 to 9675; and the Resource
32 Conservation and Recovery Act, United States Code, title 42,
33 sections 6901 to 6991;

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

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

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

6 G. regulated practices to manage toxic or hazardous
7 materials;

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

13 I. active and inactive mining activities;

14 J. building and utility construction;

15 K. highway and road construction;

16 L. dredging of harbors, lakes, and ditches;

17 M. activities intended primarily for flood control;

18 and

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

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

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

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

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

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

35 7076.0140 NOTICE OF GRANT AVAILABILITY.

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

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

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

20 7076.0150 GRANT APPLICATION.

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

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

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

35 B. written documentation that the project sponsor has

1 consulted with soil and water conservation districts and
2 watershed districts in the project area, in preparing the grant
3 application;

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

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

10 E. the amount of grant funding requested;

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

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

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

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

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

22 (4) a schedule containing milestones for project
23 development;

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

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

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

34 A. a resolution by the local unit of government that
35 will be the project sponsor, authorizing the filing of the
36 application and designating an official authorized to execute

1 the grant application, the grant contract, and other related
2 project documents;

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

7 C. a diagnostic study and implementation plan
8 approved under part 7076.0260, or an equivalent study and plan
9 that addresses the requirements of a diagnostic study and
10 implementation plan and that has been approved under part
11 7076.0260 and which contains a local water plan that provides an
12 inventory of existing physical and hydrologic information on the
13 project area, a general identification of water quality
14 problems, and goals for resource use, and demonstrates a local
15 commitment to water quality protection or improvements;

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

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

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

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

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

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

32 7076.0160 REJECTION OF GRANT APPLICATION.

33 Subpart 1. **Grounds.** An application for a project
34 development grant or a project implementation grant ~~may~~ shall be
35 rejected by the commissioner for the following reasons:

- 1 A. an ineligible applicant;
2 B. ineligible costs;
3 C. a late submittal; or
4 D. failure to comply with any requirement of statute
5 or rule.

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

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

22 7076.0170 PROJECT RANKING.

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

35 Subp. 2. Priority points for project development grant

1 applications. The following criteria must be used to determine
2 the number of priority points ~~a-project-for-which-a-project~~
3 ~~development-grant-application-has-been-submitted-is-entitled~~
4 to be awarded in the evaluation of each project development
5 grant application. The agency shall award each project between
6 zero and ten points under each of the following criteria,
7 depending on how well the project satisfies the criterion. The
8 number of points awarded under each criterion must be added
9 together to determine the project's total point value. This
10 total number must be used to determine the project's overall
11 ranking and priority. The criteria are as follows:

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

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

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

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

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

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

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

1 Subp. 3. Priority points for project implementation grant
2 applications. The following criteria must be used to determine
3 the number of priority points ~~a-project-for-which-a-project~~
4 ~~implementation-grant-application-has-been-submitted-is-entitled~~
5 to be awarded in the evaluation of each project implementation
6 grant application. The agency shall award each project between
7 zero and ten points under each of the following criteria,
8 depending on how well the project satisfies the criterion. The
9 number of points under each criterion must be added together to
10 determine the project's total point value. This total number
11 must be used to determine the project's overall ranking and
12 priority. The criteria are as follows:

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

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

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

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

33 E. the extent to which the project demonstrates a
34 high potential for project success based on community support
35 and involvement as well as participation, coordination, and
36 cooperation of federal, state, and local agencies and units of

1 government for water quality protection and improvement;

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

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

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

17 7076.0180 ALLOCATION OF FUNDING.

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

28 Subp. 2. **Grant fund allocation.** Within 90 days of the
29 close of an application period, the agency shall determine how
30 much of the remaining funds, after setting aside funds for
31 project continuation grant amendments, will be made available
32 for project development and project implementation grant
33 awards. In deciding how much money to make available for new
34 grant awards, the agency shall consider the necessity to have
35 money available for subsequent grant periods, the necessity to

1 have money available for anticipated project continuation grant
2 amendments in the next year, and other factors relating to the
3 agency's ability to ensure that money will be available for
4 upcoming projects.

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

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

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

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

20 7076.0190 SELECTION OF PROJECTS FOR GRANT AWARD.

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

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

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

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

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

8 7076.0200 PROJECT CONTINUATION GRANT AMENDMENT.

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

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

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

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

34 B. the project sponsor has identified the source of
35 the local share of funds necessary for the project continuation

1 grant amendment.

2 7076.0210 GRANT CONDITIONS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 7076.0220 GRANT CONTRACT.

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

28 A. establish the terms and conditions of the grant;

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

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

34 D. require that the project sponsor submit periodic
35 progress reports and a final report to the agency in a format

1 prescribed by the agency; and

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

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

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

11 7076.0230 MONITORING PLAN.

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

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

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

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

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

27 7076.0240 DIAGNOSTIC STUDY.

28 Subpart 1. **General requirements.** The diagnostic study
29 required to be submitted by a project sponsor under part
30 7076.0210, subpart 9, must include:

31 A. a detailed description of the water of concern;

32 B. a detailed description of the project area;

33 C. an analysis and assessment of the data and
34 information collected as a requirement of subparts 2 and 3; and

35 D. the identification and documentation of the

1 methods, procedures, model, and other tools used to prepare and
2 complete the diagnostic study.

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

6 A. a summary of historical uses and changes resulting
7 from water quality degradation;

8 B. a discussion of previous studies and other
9 historic baseline physical, chemical, and biological data; and

10 C. current data or information for the following:

11 (1) if the water of concern is a lake, the
12 description shall include the following:

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

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

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

34 (d) a summary of available fisheries
35 information;

36 (2) if the water of concern is a stream, the

1 description shall include the following:

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

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

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

15 (d) completion of invertebrate and fishery
16 assessments using standard benthological and ichthyological
17 techniques; identification of significant biological habitats
18 including riparian vegetation and spawnings areas; and

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

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

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

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

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

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

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

7 A. a map of the project area;

8 B. an aerial photo of the project area;

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

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

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

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

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

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

23 I. soil:

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

26 (2) a map of erosion-prone soils;

27 J. land use:

28 (1) existing and future land uses;

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

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

33 (4) irrigated acreage;

34 (5) domestic animal density and feedlots;

35 (6) on-site wastewater treatment systems;

36 (7) existing management practices;

- 1 (8) known tiling and drainage systems;
- 2 (9) estimates of pesticide and fertilizer use;
- 3 (10) known closed and open sanitary landfills,
- 4 closed and operating open dumps, and hazardous waste sites;
- 5 (11) known abandoned wells not sealed in
- 6 accordance with state statutes and rules;
- 7 (12) underground storage tank sites;
- 8 (13) permitted wastewater disposal systems and
- 9 discharges under chapter 7001;
- 10 (14) wetlands identified under the National
- 11 Wetlands Inventory and a summary of applicable management plans;
- 12 (15) areas delineated as floodplains;
- 13 (16) areas with known flooding problems;
- 14 (17) a summary of the state ecological and
- 15 management classifications;
- 16 (18) a summary of state management plans for fish
- 17 and wildlife;
- 18 (19) unique features and scenic areas with
- 19 relationships to water including state designated natural and
- 20 scientific areas, outstanding resource value waters, areas
- 21 containing county, state, and federal rare and endangered
- 22 species and other features such as waterfalls and springs;
- 23 (20) the ownership of local, state, and federal
- 24 Indian tribal lands;
- 25 (21) lands with easements that relate to water
- 26 resources;
- 27 (22) population characteristics; and
- 28 (23) a summary of recreational land uses;
- 29 K. precipitation:
- 30 (1) a map and list of the location of
- 31 precipitation gauging stations in the project area;
- 32 (2) a map showing isolines of normal annual total
- 33 precipitation;
- 34 (3) a map showing isolines of normal
- 35 precipitation in inches for the period May to September; and
- 36 (4) a summary of precipitation information for

1 the project area; and

2 L. hydrology:

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

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

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

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

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

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

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

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

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

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

32 C. the identification of project objectives in terms
33 of:

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

36 (2) economic, recreational, and health factors;

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

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

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

14 7076.0250 IMPLEMENTATION PLAN.

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

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

21 (1) identification of best management practices;

22 (2) an estimate of costs for practice
23 installation;

24 (3) a schedule for implementation;

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

28 (5) an estimate of pollutant reduction; and

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

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

34 (1) a monitoring plan that includes the chemical,
35 physical, and biological parameters that will be measured to

1 enable comparisons with goals and objectives established in the
2 diagnostic study;

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

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

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

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

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

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

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

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

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

25 7076.0260 DIAGNOSTIC STUDY AND IMPLEMENTATION PLAN APPROVAL.

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

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

34 B. the diagnostic study provides information in
35 sufficient detail to technically define the water quality

1 problems, sources of pollution, and project goals and objectives
2 for water quality protection and improvement;

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

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

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

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

18 7076.0270 BEST MANAGEMENT PRACTICE EVALUATION.

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

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

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

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

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

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

33 7076.0280 GRANT PAYMENTS.

34 Subpart 1. **Reimbursement.** The project sponsor may submit
35 a request for reimbursement of expenditures for each of the

1 standard calendar quarters ending March 31, June 30, September
2 30, and December 31. The agency shall pay the reimbursement
3 within 45 days of the request if the grantee is in compliance
4 with conditions of the grant contract and requirements of parts
5 7076.0100 to 7076.0290.

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

11 Subp. 3. **Withholding of reimbursement.** The agency may
12 shall withhold reimbursement if the project sponsor has failed
13 to comply with any requirements of the grant contract or parts
14 7076.0100 to 7076.0290. The funds will not be released until
15 the agency determines that the project sponsor has corrected the
16 deficiencies causing noncompliance.

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

22 7076.0290 GRANT RESCISSION.

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