

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

JAL

RULE REVIEW CHECKLIST

File No. 1508

Docket No. 05-0009-0700 ~~F589~~

DATE RECEIVED 7-29-88

ADOPTED W/O HEARING ✓

REVIEW DATE ~~8-4~~ 8-8-88

EMERGENCY RULE _____

DUE DATE 8-12-88

REVISOR APPROVED ✓

APPROVED 8/15/88 gh2

REVISOR DISAPPROVED _____

DISAPPROVED _____

FILED W/SEC. OF STATE 8/26/88

WITHDRAWN 8/11/88 gh2

RETURNED TO AGENCY 8/26/88

✓ Rule as adopted (4 copies)

✓ Notice to Solicit Outside Information/Opinion (if applicable)

9/14/87 Date published in State Register
1 Comments

~~Petition for Adoption of a Rule (if applicable)~~

✓ Board's Authorizing Resolution

3/29/88 Date adopted

✓ Proposed Rule

yes Revisor's Certificate

✓ Notice of Intent to Adopt Rule

115.10 Statutory Authority
yes Small Business Statement
yes Expenditure of public money statement
yes Signature

✓ Statement of Need and Reasonableness (if applicable)

yes Small Business Statement
no Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule

4/15/88 Date (30)/25 days before adoption
ok Notice attached
~~Copy of rule or summary attached~~

✓ Publication in State Register

4/18/88 Date (30)/25 days before adoption

_____ 180-day deadline from:

5/15/88 end of comment period (§ 14.26) (rules without hearing)
_____ ~~effective date of statutory authority (§ 14.29) (emergency rules)~~

✓ Resolution Adopting

6/28/88 Date adopted

✓ Findings of Fact, Conclusions & Order Adopting

6/28/88 Date

✓ Written requests, submissions or comments

✓ Declaration of attorney

Alan Mitchell Name of SAAG representing agency

_____ ~~Notice of Submission to Atty. Gen. (if applicable)~~

_____ ~~Aff. of Mailing Notice to Atty. Gen. (if applicable)~~

ATTORNEY GENERAL

August 26, 1988

CURTIS J. SPARKS, P.E., CHIEF
Program Development Section
Division of Water Quality

JULIE A. LEPPINK
Special Assistant
Attorney General

6-9422

In the Matter of the Adopted Rule Relating to
Clean Water Partnership

The above-refernced rule has been approved as to its legality by the Attorney General on August 25, 1988.

Enclosed is the agency's copy of the approved rule. This office has already filed two copies with the Secretary of State who will forward one copy to the Revisor of Statutes. The fourth is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submission or comments received by the agency and any extra copies of documents which the agency submitted to the Attorney General.

In order for a permanent rule without a hearing to become effective, your agency must publish a notice of adoption in the State Register in accoradance with Minn. Stat. §14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. §14.34.

If you have any questions in this regard, please contact me.

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Enclosures

cc: Maryanne Hruby
Executive Director
Legislative Commission to Review
Administrative Rules

Duane Harves
Chief Administrative Law Judge
Office of Administrative Hearings

Pollution Control Agency
Water Quality Division

Adopted Permanent Rules Relating to Clean Water Partnership

Rules as Adopted

CHAPTER 7076
MINNESOTA POLLUTION CONTROL AGENCY
WATER QUALITY DIVISION
CLEAN WATER PARTNERSHIP GRANTS

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.

7076.0110 DEFINITIONS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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7076.0120 AVAILABLE ASSISTANCE.

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

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

7076.0130 ELIGIBILITY CRITERIA.

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

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

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

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

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

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

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B. fiscal and management activities including report preparation;

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

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

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

F. development and implementation of official controls;

G. acquisition of easements and property; and

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

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

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

B. operation and maintenance of best management practices;

C. activities regulated by the National Pollutant Discharge Elimination System permit program, parts 7001.1000 to 7001.1100; the State Disposal System permit program; the Petroleum Tank Release Clean-up 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;

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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.

7076.0140 NOTICE OF GRANT AVAILABILITY.

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

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

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

7076.0150 GRANT APPLICATION.

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

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

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

B. written documentation that the project sponsor has

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

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

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

E. the amount of grant funding requested;

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

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

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

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

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

(4) a schedule containing milestones for project development;

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

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

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

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

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

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

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

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

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

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

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

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

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

7076.0160 REJECTION OF GRANT APPLICATION.

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

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A. an ineligible applicant;

B. ineligible costs;

C. a late submittal; or

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

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

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

7076.0170 PROJECT RANKING.

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

Subp. 2. **Priority points for project development grant**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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government for water quality protection and improvement;

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

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

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

7076.0180 ALLOCATION OF FUNDING.

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

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

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

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

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

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

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

7076.0190 SELECTION OF PROJECTS FOR GRANT AWARD.

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

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

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

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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.

7076.0200 PROJECT CONTINUATION GRANT AMENDMENT.

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

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

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

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

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

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grant amendment.

7076.0210 GRANT CONDITIONS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7076.0220 GRANT CONTRACT.

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

A. establish the terms and conditions of the grant;

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

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

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

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prescribed by the agency; and

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

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

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

7076.0230 MONITORING PLAN.

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

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

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

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

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

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

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

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

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

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

C. current data or information for the following:

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

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

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

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

(d) a summary of available fisheries information;

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

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description shall include the following:

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

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

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

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

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

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

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

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

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

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

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

A. a map of the project area;

B. an aerial photo of the project area;

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

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

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

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

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

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

I. soil:

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

(2) a map of erosion-prone soils;

J. land use:

(1) existing and future land uses;

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

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

(4) irrigated acreage;

(5) domestic animal density and feedlots;

(6) on-site wastewater treatment systems;

(7) existing management practices;

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(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;

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

(15) areas delineated as floodplains;

(16) areas with known flooding problems;

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

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

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

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

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

(22) population characteristics; and

(23) a summary of recreational land uses;

K. precipitation:

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

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

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

(4) a summary of precipitation information for

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the project area; and

L. hydrology:

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

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

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

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

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

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

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

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

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

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

C. the identification of project objectives in terms of:

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

(2) economic, recreational, and health factors;

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

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

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

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

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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 nonpoint source pollution;

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

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

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

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

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

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

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

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

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.

7076.0280 GRANT PAYMENTS.

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

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

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

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

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

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.

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Office of the Revisor of Statutes

Administrative Rules

TITLE: Adopted Permanent Rules Relating to Clean Water Partnership

AGENCY: Pollution Control Agency

MINNESOTA RULES: Chapter 7076

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
AUG 26 1988
9:17AM
Joan Anderson Growe
Secretary of State

APPROVED AS TO FORM AND LEGALITY
August 25 19 88
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY
SPECIAL ASSISTANT ATTORNEY GENERAL

The attached rules are approved for filing with the Secretary of State

David S. Niss
Assistant Revisor

Pollution Control Agency
Water Quality Division

Proposed Permanent Rules Relating to Clean Water Partnership

Rules as Proposed (all new material)

CHAPTER 7076
MINNESOTA POLLUTION CONTROL AGENCY
WATER QUALITY DIVISION
CLEAN WATER PARTNERSHIP GRANTS

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.

7076.0110 DEFINITIONS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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7076.0120 AVAILABLE ASSISTANCE.

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

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

7076.0130 ELIGIBILITY CRITERIA.

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

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

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

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

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

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

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B. fiscal and management activities including report preparation;

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

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

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

F. development and implementation of official controls;

G. acquisition of easements and property; and

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

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

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

B. operation and maintenance of best management practices;

C. activities regulated by the National Pollutant Discharge Elimination System permit program, parts 7001.1000 to 7001.1100; the State Disposal System permit program; the Petroleum Tank Release Clean-up 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;

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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.

7076.0140 NOTICE OF GRANT AVAILABILITY.

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

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

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

7076.0150 GRANT APPLICATION.

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

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

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

B. written documentation that the project sponsor has

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

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

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

E. the amount of grant funding requested;

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

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

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

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

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

(4) a schedule containing milestones for project development;

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

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

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

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

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

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

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

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

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

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

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

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

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

7076.0160 REJECTION OF GRANT APPLICATION.

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

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A. an ineligible applicant;

B. ineligible costs;

C. a late submittal; or

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

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

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

7076.0170 PROJECT RANKING.

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

Subp. 2. **Priority points for project development grant**

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

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

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

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

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

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

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

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

Subp. 3. **Priority points for project implementation grant**

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applications. The following criteria must be used to determine the number of priority points a project for which a project implementation grant application has been submitted is entitled to. The agency shall award each project between zero and ten points under each of the following criteria, depending on how well the project satisfies the criterion. The number of points under each criterion must be added together to determine the project's total point value. This total number must be used to determine the project's overall ranking and priority. The criteria are as follows:

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

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

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

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

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

F. the extent to which the project demonstrates a

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significant degree of transferability to similar local units of government; and

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

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

7076.0180 ALLOCATION OF FUNDING.

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

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

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agency's ability to ensure that money will be available for upcoming projects.

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

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

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

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

7076.0190 SELECTION OF PROJECTS FOR GRANT AWARD.

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

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

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

Subp. 4. **Timing.** The agency shall make its decision on fund allocation, project ranking, and projects to which grants

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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.

7076.0200 PROJECT CONTINUATION GRANT AMENDMENT.

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

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

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

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

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

7076.0210 GRANT CONDITIONS.

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

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

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

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

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

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

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

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

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

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

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activities implemented during the year; and

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

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

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

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

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

7076.0220 GRANT CONTRACT.

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

A. establish the terms and conditions of the grant;

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

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

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

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

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

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

7076.0230 MONITORING PLAN.

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

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

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

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

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

7076.0240 DIAGNOSTIC STUDY.

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

A. a detailed description of the water of concern;

B. a detailed description of the project area;

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

D. the identification and documentation of the methods, procedures, model, and other tools used to prepare and complete the diagnostic study.

Subp. 2. **Description of water of concern.** The diagnostic

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study must contain a detailed description of the water of concern that includes:

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

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

C. current data or information for the following:

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

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

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

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

(d) a summary of available fisheries information;

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

(a) identification or measurement of stream length, sinuosity, order, substrate, estimated maximum high flow

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for 24 consecutive hours that has a recurrence interval of 25 years, mean flow for the available period of record, and annual minimum flow for seven consecutive days that has a recurrence interval of ten years;

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

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

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

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

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

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

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

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

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

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

A. a map of the project area;

B. an aerial photo of the project area;

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

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

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

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

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

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

I. soil:

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

(2) a map of erosion-prone soils;

J. land use:

(1) existing and future land uses;

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

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

(4) irrigated acreage;

(5) domestic animal density and feedlots;

(6) on-site wastewater treatment systems;

(7) existing management practices;

(8) known tiling and drainage systems;

(9) estimates of pesticide and fertilizer use;

(10) known closed and open sanitary landfills,

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closed and operating open dumps, and hazardous waste sites;

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

(12) underground storage tank sites;

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

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

(15) areas delineated as floodplains;

(16) areas with known flooding problems;

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

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

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

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

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

(22) population characteristics; and

(23) a summary of recreational land uses;

K. precipitation:

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

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

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

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

L. hydrology:

(1) an estimate of the maximum high flow for 24

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consecutive hours that has a recurrence interval of 25 years, mean flow for the available period of record, and annual minimum flow for seven consecutive days that has a recurrence interval of ten years;

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

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

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

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

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

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

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

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

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

C. the identification of project objectives in terms of:

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

(2) economic, recreational, and health factors;

D. an estimate of the pollutants coming from the subunit of project area defined on a hydrologic basis and the identification of the target levels of pollutant reduction

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necessary to meet the project objectives and water quality goals; and

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

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

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

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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 nonpoint source pollution;

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

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

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

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feasible means to abate nonpoint sources of water pollution and achieve project objectives; and

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

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

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

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.

7076.0280 GRANT PAYMENTS.

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

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with conditions of the grant contract and requirements of parts 7076.0100 to 7076.0290.

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

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

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

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.

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Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Clean Water Partnership

AGENCY: Pollution Control Agency

MINNESOTA RULES: Chapter 7076

The attached rules are approved for publication in the State Register

David S. Niss
Assistant Revisor

CERTIFICATE OF AGENCY'S AUTHORIZING RESOLUTION

I, Gerald L. Willet, do hereby certify that I am the Commissioner of the Minnesota Pollution Control Agency, an agency duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Minnesota Pollution Control Agency duly and properly called and held on the 22 day of March, 1988, that a quorum was present at said meeting, that a majority of those present voted for the resolution and that said resolution will be set forth in the minutes of said meeting and has not been rescinded or modified:

> BE IT RESOLVED, that the Commissioner of the Minnesota Pollution Control Agency (Agency) is hereby granted the authority to sign and to give notice of the Agency's intent to adopt, without a public hearing, the attached rules, Minn. Rules Parts 7076.0100 to 7076.2000, to all persons who have registered their names with the Agency for that purpose and publish the notice and the rules in the State Register, and to perform any acts incidental thereto, including making any form changes in the rules that the Revisor of Statutes requires the Agency to make in order to obtain the Revisor's certification as required by Minn. Stat. § 14.07, subp. 2 (1986).
>
> BE IT FURTHER RESOLVED, that in the event a public hearing becomes necessary, the Commissioner is hereby granted the authority and directed to call a hearing for the purpose of promulgating said rules as well as to perform any and all acts incidental thereto, including but not limited to signing an Order for a Notice of Hearing, as well as acting as the Agency's representative at all hearings.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 29th day of March, 1988.

Gerald L. Willet

Gerald L. Willet
Commissioner

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rules Governing Clean Water Partnership Program, Minn. Rules Parts 7076.0100 to 7076.0290

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

Notice is hereby given that the Minnesota Pollution Control Agency (Agency) intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act Minn. Stat. §§14.22 to 14.28 (1986) for adopting rules without a public hearing. The Agency's authority to adopt the rule is set forth in Minn. Stat. §115.10 (Supp. 1987).

All persons have until 4:30 p.m. on May 18, 1988, to submit comments in support of or in opposition to the proposed rules or any part or subpart of the rules. Comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rules within the comment period. If 25 or more persons submit a written request for a public hearing within the comment period, a public hearing will be held unless a sufficient number withdraw their requests in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any change proposed. If a public hearing is required, the Agency will proceed pursuant to Minn. Stat. §§ 14.131 to 14.20 (1986).

Comments or written requests for a public hearing must be submitted to:

Mr. Gaylen Reetz
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155
(612) 296-8834

The proposed rules may be modified if the modifications are supported by data and views submitted to the Agency and do not result in a substantial change in the proposed rule as noticed.

The proposed rules, if adopted will establish the criteria and procedural conditions under which the Agency may award grants for projects to control nonpoint sources of pollution.

The proposed rules provide separate grants for fifty percent of the eligible costs of project development and project implementation. The project development grant is to complete a diagnostic study and implementation plan which meet the requirements defined in the rules. The project development activities identify the specific water quality problems and sources of pollution and the combination of best management practices, activities and protective measures that will be necessary to solve the identified problems. The project

implementation grant is to install the best management practices and carry out the educational and other activities identified in the implementation plan completed through the project development grant.

The proposed rules also include the procedures and conditions for administration of the program. This includes the application requirements that provide the Agency with the information necessary to rank the projects in order of priority for funding. The rules spell out the criteria and procedures to be used by the Agency in ranking projects to receive funding, the allocation of funds between project development grants, project implementation grants and the continuation of ongoing projects. The rules also identify costs that are eligible for reimbursement, requirements for contracts between the Agency and project sponsor and procedures for reimbursement of grant eligible costs. A copy of the proposed rules is enclosed. One free copy of the rules is available upon request from Mr. Gaylen Reetz at the address and telephone number stated above.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Mr. Gaylen Reetz upon request.

You are hereby advised, pursuant to Minn. Stat. § 14.115 (1986), "Small business considerations in rulemaking" - that the proposed rules will not have any direct adverse effects on small businesses. In most projects, small businesses will benefit from contracts provided by the project sponsor to complete project activities.

You are hereby advised, pursuant to Minn. Stat. § 14.11, Subd. 1, that the proposed rules will not require the expenditure of public monies by local units of government unless a local unit of government elects to participate in the Clean Water Partnership Program.

You are hereby advised, pursuant to Minn. Stat. § 14.11, Subd. 2, that the proposed rules will not have any direct adverse effects on agricultural lands in the State. In areas where projects are conducted, it will improve agricultural lands because many best management practices have secondary benefits such as improving soil productivity and limiting soil erosion.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the rule as adopted, must submit a written request to Mr. Gaylen Reetz.

Please be advised that Minnesota Statutes, Ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minnesota Statutes, § 10A.01, subd. 11 (1986) as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than $250, not including his own travel expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The state provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone (612) 296-5615.

Gerald L. Willet

Dated: April 15, 1988

GERALD L. WILLET
Commissioner

STATE OF MINNESOTA

POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rules Governing the Clean Water Partnership Program, Minnesota Rules Parts 7076.0100 to 7076.0290

AFFIDAVIT OF MAILING THE NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Wayne P. Anderson, being duly sworn says:

That on the 15th day of April, 1988, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice in Intent to Adopt Rules Without a Public Hearing by depositing in the State of Minnesota Central Mail System or in the United States Mail for first class mailing, a copy thereof, properly enveloped, with postage prepaid, addressed to all persons and associations who had requested that their names be placed on file with the Minnesota Pollution Control Agency for the purpose of receiving notice of rulemaking, and addressed to all other persons and associates named on the attached mailing list.

Wayne P. Anderson

Wayne P. Anderson

Subscribed and sworn to before me
this 15 day of April, 1988

Notary Public

A. D. GILLINGHAM
NOTARY PUBLIC - MINNESOTA
HENNEPIN COUNTY
My commission expires 10-3-91

ADHESIVE & SEALANT COUNCIL
BRENDA HARRIS
SUITE 515
1500 WILSON BLVD
ARLINGTON VA 22209 1

AMERICAN CRYSTAL SUGAR
ATTN F A HEINBAUGH
MGR ENV CONTR
101 N THIRD ST
MOORHEAD MN 56560 1

AMOCO PIPELINE CO
ATTN COORD-REGULATIONS
P O BOX 3548
OAK BROOK IL 60522-3548 1

ANHEUSER-BUSCH CO INC
J V STIER MGR ENV AFFAIRS
ONE BUSCH PLACE 202-4
ST LOUIS MO 63118-1852 1

ANHEUSER-BUSCH CO INC
ROBERT A WACHTER ENV ENG
ONE BUSCH PLACE 202-4
ST LOUIS MO 63118-1852 1

ANOKA CO COMM HEALTH &
SOC SERV DEPT LOIS HACKER
COURTHOUSE 4TH FL
325 E MAIN STREET
ANOKA MN 55303 1

ANOKA COUNTY HEALTH DEPT
ATTN ROBERT HUTCHISON
COURTHOUSE 4TH FLOOR
ANOKA MN 55303 1

ARMOUR & COMPANY
ATTN ROBERT J SHERMAN
CONAGRA CENTER
ONE CENTRAL PARK PLAZA
OMAHA NE 68102-1679 1

ASHLAND PETROLEUM COMPANY
ATTN RICHARD HETLAND
P O BOX 9
ST PAUL PARK MN 55071 1

ASHLAND PETROLEUM CO
ATTN A C MEKO LAW DEPT
P O BOX 391
ASHLAND KY 41114 1

ASSN OF MN COUNTIES
SUITE 404
525 PARK STREET
ST PAUL MN 55103 1

MARY AYDE
1201 N BIRCH LAKE BLVD
WHITE BEAR LAKE MN 55110 1

BADGER SAFE ENERGY ALLI
BOX 239
ELLSWORTH WI 54011 1

BARR ENGINEERING CO
DALE WIKRE
803 GLENROY RD
SUITE 100
MPLS MN 55435 1

BRUCE E BENSON
ZONING OFFICER
COURTHOUSE
P O BOX 220
CARLTON MN 55718 1

BLACK & VEATCH
ATTN JILL WRIGHT
SUITE 1240
TOWER 600 RENCEN
DETROIT MI 48243 1

BLANDIN PAPER COMPANY
ATTN W J LICKE
115 FIRST STREET S W
GRAND RAPIDS MN 55744 1

BLANDIN WOOD PRODUCTS CO
ATTN CURT R FIRMAN
502 COUNTY ROAD 63
GRAND RAPIDS MN 55744 1

BOISE CASCADE CORPORATION
ATTN AL MEADOWS
ENVIRONMENTAL ENGINEER
INT'L FALLS MN 56649 1

BOLTON & MENK INC
ATTN ROBERT M BROWN
515 N FRONT STREET
MANKATO MN 56001 1

BRAUN ENVIRONMENTAL LAB
ANNE OCHS
6800 S COUNTY RD 18
P O BOX 35108
MPLS MN 55435-0108 1

BROEKER GEER FLETCHER &
LAFOND LTD DIANE HELDT
8500 NORMANDALE LAKE BLVD
SUITE 1510
BLOOMINGTON MN 55437 1

BUREAU OF NAT'L AFFAIRS
ATTN MARK WOLSKI
1729 HAGUE AVENUE
ST PAUL MN 55104 1

DONALD BURGER
501 22ND AVE NE
MPLS MN 55418 1

BURLINGTON NORTHERN
LAW DEPT THOMAS SPENCE
ROOM 600 325 CEDAR ST
ST PAUL MN 55101 1

BURLINGTON NORTHERN RLRD CO
BERNARD NOONAN
P O BOX 29136
OVERLAND PARK KS 66201-9136 1

BUSCH ELECTRONICS
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STAMFORD CN 06921 1

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EDEN PRAIRIE MN 55344 2

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1 CORNELIUS PLACE
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ATTN JOHN HERMAN
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SUITE 930
MPLS MN 55401 2

DAKOTA COUNTY ATTORNEY
JAMES C BACKSTROM
1560 HIGHWAY 55
HASTINGS MN 55033 2

DAKOTA COUNTY ENV'L
HEALTH RON SPONG
SUITE 345
33 E WENTWORTH
WEST ST PAUL MN 55118 2

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1846 HOFFMAN
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DAVID BRASLAU ASSOC
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EPA REGION V
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727 15TH AVE SE #30
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MPLS MN 55401 3

J WILLIAM HAUN P E
TCF TOWER SUITE 1335
121 S EIGHTH STREET
MPLS MN 55402 3

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DAVID K WEAVER
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PLYMOUTH MN 55441 3

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& EVALUATION
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EAGAN MN 55121 3

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DUBUAUE IA 52004-0769 3

THE IZAAK WALTON LEAGUE
OF AMERICA MN DIV
525 PARK STREET #101
ST PAUL MN 55103 3

L L K O D LAW OFFICES
ATTN JOHN E DRAWZ
2000 FIRST NAT BANK PL W
MINNEAPOLIS MN 55402 3

LAKE SUPERIOR
INDUSTRIAL BUREAU
1408 ALWORTH BLDG
DULUTH MN 55802 3

LAND O'LAKES
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P O BOX 116
MPLS MN 55440 3

LEAGUE OF MINNESOTA CITIES
ATTN JOEL JOMNIK
183 UNIVERSITY AVE E
ST PAUL MN 55101 3

TOM LEHMAN
SUITE #322
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400 N CAPITOL ST NW
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BRUCE A LIESCH ASSOC
LISA KALODRICH
3020 HARBOR LANE
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ROBERT LOCKYEAR
PLANNING COORDINATOR
14900 61ST STREET N
STILLWATER MN 55082 3

RACHEL LORD
2323 TALMAGE AVE SE
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LEGAL DIVISION
201 S 7TH STREET
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KAREN LAMPERT
700 W LINDEN AVE
P O BOX 1165
MPLS MN 55440-1165 3

THE MINNESOTA PROJECT
2222 ELM STREET SE
MPLS MN 55414 3

MN AGRI GROWTH COUNCIL
8030 CEDAR AVE S
SUITE 213
BLOOMINGTON MN 55425 3

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SUITE 136
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2512 DELAWARE ST SE
MPLS MN 55414 4

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DES PLAINES IL 60018 4

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NSP LAW DEPT
JOSEPH D BIZZANO JR
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310 S 4TH AVENUE
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DULUTH MN 55802 4

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222 S 9TH STREET
MPLS MN 55402 4

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3300 PIPER JAFFRAY TOWER
222 S 9TH STREET
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500 HOWARD ST
SAN FRANCISCO CA 94105 4

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RED WING MN 55066 4

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FAIRFAX VA 22031 4

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ST PAUL MN 55101 5

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425 PORTLAND AVE
MPLS MN 55488 5

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BRUCE DETLEFSEN
951 PERSHING DRIVE
SILVER SPRINGS MD 20910 5

STEARNS COUNTY ZONING ADM
JACK WIMMER
BOX 604
ST CLOUD MN 56302 5

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319 15TH AVE SE
MPLS MN 55455 5

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ENV & LAND DIV
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ELK RIVER MN 55330-0800 5

UNITED POWER ASSOC
REYNOLD S RAHKO
PROJECTS COORD DIV
ELK RIVER MN 55330 5

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BOX 56
SO ST PAUL MN 55075 5

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ST PAUL MN 55102 5

WASH CO PUBLIC HEALTH
TOM DELLENBACH
P O BOX 6
STILLWATER MN 55082 5

WASH CO PUBLIC HEALTH
ZACK HANSEN
14900 N 61ST STREET
P O BOX 6
STILLWATER MN 55082 5

WASH CO BRD OF COMM
SALLY EVERT
14900 61ST STREET N
STILLWATER MN 55082 5

WESTINGHOUSE ELECTRIC CORP
WALTER R NORKUS
10 S RIVERSIDE PLAZE
CHICAGO IL 60606 5

CITY OF WINONA
ROBERT J BOLLANT
4TH & LAFAYETTE ST
WINONA MN 55987 5

NEWS EDITOR
WINONA DAILY NEWS
BOX 147
WINONA MN 55987 5

WINTHROP & WEINSTINE
1800 MERITOR TOWER
444 CEDAR STREET
ST PAUL MN 55101 5

PROF MARCIA GELPE
875 SUMMIT AVE
ST PAUL MN 55102 5

DANIEL D FOLEY MD
161 MCBOAL STREET
ST PAUL MN 55102 5

JANET C GREEN
10550 OLD N SHORE RD
DULUTH MN 55804 5

VAN R ELLIG
106 E WASHINGTON AVE
P O BOX E
FERGUS FALLS MN 56537 5

KEITH H LANGMO
618 WEST CRESCENT LANE
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ARNOLD ONSTAD
204 SECOND STREET SE
SPRING GROVE MN 55974 5

RUTH ERICSON
80 EDISON BLVD
SILVER BAY MN 55614 5

MILTON RADJENOVICH
P O BOX 667
604 JONES AVENUE
BUHL MN 55713 5

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DEPT OF AGRICULTURE
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ST PAUL MN 55107 IO

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402 METRO SQUARE
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P O BOX 9441
MPLS MN 55440 IO

LEGISLATIVE COMM ON
WASTE MANAGEMENT
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REVIEW ADMIN RULES
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ROOM 55
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JOHN IRELAND BLVD
ST PAUL MN 55155 IO

MN SMALL BUSINESS ASSISTANCE
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ENV DIV 100 CAPITOL SQ BLDG
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ROOM 306
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MPCA HEARING NOTIFICATION MAILING LIST INTER OFFICE

ALBERT BERGLUND
83 HICKORY LANE
LINCOLNSHIRE IL 60015 WQ

CENEX
AL BALDUS
BOX 64089
ST PAUL MN 55164 WQ

CENEX/LAND'LAKES
ATTN RALPH SCHLETTY
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ST PAUL MN 55164 WQ

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DULUTH MN 55802 WQ

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MARILYNNE ROBERTS
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1210 W COUNTY ROAD E
ST PAUL MN 55112 WQ

BARBARA LIUKKONEN
WATER RESOURCES AGENT
CAMPTON CENTER
SILVER BAY MN 55614 WQ

MAYO CLINIC FOUNDATION
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HEMATOLOGY RESEARCH
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300 METRO SQUARE BLDG
7TH STREET & ROBERT STREET
ST PAUL MN 55101 WQ

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1910 W COUNTY RD B
ROSEVILLE MN 55113 WQ

SHARLLA REGEHR
RR1 BOX 419
STEWARTVILLE MN 55976 WQ

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1001 E FIRST STREET
DULUTH MN 55805 WQ

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WATER & SOIL RESOURCES
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E & J Pessenda, Inc.
Koscak's Bar
206 W. Lake St.
Chisholm, MN 55719

Ms. Pauline Moen
Ivanhoe, MN 56142

Dr. Richard R. Anderson
Rout 8, Box 600
St. Cloud, MN 56301

Mr. Gary Hoffman
Ortonville, MN 56278

Mr. David Thompson
c/o Cottonwood County Courthouse
Windom, MN 56101

Mr. Peter Wallen
Ortonville, MN 56278

Mr. Dean Williams
2nd Avenue S.W.
Pipestone, MN 56164

Mr. Michael Jewel
P.O. Box 796
Marshall, MN 56258

Mr. Jim Clapper
Ivanhoe, MN 56142

Mr. Dave Behm
Nobles SWCD
P.O. Box 158
Worthington, MN 56187

Mr. Robert Finley
P.O. Box 69
Redwood Falls, MN 56283

Mr. John Boulton
Lincoln SWCD
P.O. Box 32
Ivanhoe, MN 56142

Marian Blattner
P.O. Box 78
Marshall, MN 56258

Mr. Ken DeComer
Lyon SWCD
1400 East Lyon St.
Marshall, MN 56258

Ms. Annette Bair
2524 Broadway (SRDC)
Slayton, MN 56172

Clair Larson
Pennington SWCD
1305 Dale St.
Thief River Falls, MN 56701

Chris Hughes
MN Department of Natural Resources
Marshall, MN 56258

Mr. Phil Rogers
Mahnomen SWCD
P.O. Box 381
North Main
Mahnomen, MN 56557

Mr. Joe Stepanek
Pipestone SWCD
119 Second Avenue S.W.
Pipestone, MN 56164

Mr. Ray Bisek
Mahnomen SWCD
P.O. Box 381
North Main
Mahnomen, MN 56557

Mr. Joe Fitzgerald
Stearns County SWCD
3700 West Division St.
St. Cloud, MN 56301

Mr. Bill Patnaude
Beltrami Co. Courthouse
Bemidji, MN 56601

Mr. Dwayne Deziel
Sherburn SWCD
661 Main St.
Elk River, MN 55330

Mr. Albert Koop
Pennington County Comm.
Pennington County Courthouse
Thief River Falls, MN 56701

Mr. Bill Alden
Hubbard SWCD
Route 4, Box AA
Park Rapids, MN 56470

Mr. Vern Massie
Planning Zoning Office Courthouse
Park Rapids, MN 56470

Mr. Douglas Rasmusson
Stevens SWCD
Rural Route 2, Box D
Ag. Service Center
Morris, MN 56267

Mr. Dan Logelin
Clearwater County Courthouse
P.O. Box 631
Bagley, MN 56621

Mr. Raymond S. Olson
Pennington County SWCD
1305 Dale St.
Thief River Falls, MN 56701

Mr. Cliff McLain
City of Moorhead
Moorhead, MN 56560

Mr. Steven M. Hanson
City of Detroit Lakes Water Dept.
Detroit Lakes, MN 56501

Mr. Roland Gullekson
Sandhill River Watershed
Fertile, MN 56540

Mr. Raymond S. Olson
Pennington County SWCD
1305 Dale St.
Thief River Falls, MN 56701

Francis LaVor
Sandhill River Watershed
Fosston, MN 56542

Mr. Joe Montonye
Grant SWCD
Elbow Lake, MN 56531

Mr. Kevin Weber
Douglas County Zoning Office
305 8th Avenue West
Alexandria, MN 56308

Mr. Wally Bernhardsen
RR 2
Ada, MN 56510

Mr. George King
Becker County Comm.
Becker County Courthouse
Detroit Lakes, MN 56501

Mr. Tim Magnusson
Clay County Planning
Moorhead, MN 56560

Mr. Eddie Bernhardson
Clay County Ext.
Moorhead, MN 56560

Mr. Jerry Einerson
Chippewa County
Montevideo, MN 56265

Ms. Lisa Axton
Becker Co. Extension
Detroit Lakes, MN 56501

Mr. Jerry Holien
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Beltrami, MN 56517

Mr. Alvin Jacobson
Crow Wing County
Brainerd, MN 56401

Mr. Bob Merritt
DNR, Division of Waters
Detroit Lakes, MN 56501

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Crow Wing County
Brainerd, MN 56401

Mr. Gary Thoennes
Douglas County
Alexandria, MN 56308

Mr. Jim Zischke
St. Olaf College
Northfield, MN 55057

Mr. Lee Wallace
Stearns County
St. Cloud, MN 56301

Mr. Ken Schumann
Box 296
Hutchinson, MN 55350

Mr. Bob Mostol
Sauk River Watershed District
Osakis, MN 56360

Mr. Elvin Tews
Box 457
Spicer, MN 56288

Mr. Eugene Fitterer
Meeker County Zoning
Courthouse
Litchfield, MN 55355

Mr. Marvin Klug
Courthouse
Foley, MN 56329

Mr. Gordon Regenscheid
Meeker County
Litchfield, MN 55355

Mr. Jim Bestick
CHS, Box 153
St. Cloud, MN 56301

Mr. Mike Howe
Pope County Courthouse
Glenwood, MN 56334

Mr. William Ring
Lake Minnie Belle Township Assn.
Litchfield, MN 55355

Mr. David Bonistall
Champion International
Sartell, MN 56377

Mr. Paul Dudlich
Box 158
Montrose, MN 55363

Mr. Daniel Parks
26 7th Avenue North
St. Cloud, MN 56302

Mr. Richard R. Anderson
Rt. 8, Box 600
St. Cloud, MN 56301

Ms. Jackie Carr
Wright County Courthouse
Buffalo, MN 55314

Mr. Leonard Stuleu
7404 82nd Avenue N.E.
Spicer, MN 56288

Mr. John R. Morton
Pope County SWCD
Glenwood, MN 56334

Mr. Bill Bronder
Sherburne SWCD
661 Main St.
Elk River, MN 55330

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Courthouse
Grand Marais, MN 55604

Mr. Peter Otterson
MDNR - French River
10029 Northshore Dr.
Duluth, MN 55804

Mr. Curt Lindgren
N. St. Louis SWCD
401 6th Avenue Noth
Virginia, MN 55792

Mr. Jim Dusek
MDNR
Grand Rapids, MN 55744

Mr. Ron King
N. St. Louis SWCD
401 6th Avenue North
Virigina, MN 55792

Mr. David T. Davis
South St. Louis County Soil
and Water Conservation District
2812 Miller Trunk
Hermantown, MN 55811

Mr. James Piegat
Hennepin Conservation District
12450 Wayzata Blvd., #205
Minnetonka, MN 55343

Mr. Jim Lawlunen
St. Louis County Planning
Room 502 Courthouse
Duluth, MN 55802

Mr. Stevens McCombs
Scott SWCD/Blue Water Science
1811 Elisandor Avenue.
St. Paul, MN 55116

Mr. Barbara Liukkonen
Water Resources
Campton Center
Silver Bay, MN 55614

Mr. John Barten
821 3rd St.
Dakota SWCD
Farmington, MN 55024

Mr. Hal Runke
Barr Engineering
7803 Glenroy Road
Minneapolis, MN 55435

Mr. Art Persons
Winona County Courthouse
Winona, MN 55987

Mr. Dave Janisch
City of Roseville
2660 Civic Center Drive
Roseville, MN 55113

Mr. Bill Weidenbacher
E.A. Hickok and Associates
545 Indian Mound
Wayzata, MN 55391

Mr. Gordon Heitke
Knife Lake Imp. District
Route 3, Box 257
Mora, MN 55051

Mr. Allan Kremer
E.A. Hickok and Assoc.
545 Indian Mound
Wayzata, MN 55391

Mr. Ron Rudrud
2215 W. Old Shakopee Road
Bloomington, MN 55431

Ms. Amy Middleton
Citizens for a Better Environment
1515 East Lake St.
Suite 201
Minneapolis, MN 55407

Mr. Nicklas Tiedekan
DNR Waters
Cambridge, MN 55008

Mr. David Leuthe
DNR Waters
915 South Hwy 65
Cambridge, MN 55008

Mr. Dale Watson
Rieke-Carroll-Muller and Associates
Box 130
Minnetonka, MN 55343

Mr. Jim Anderson
503 Soil Bldg.
MN Ext. Service
U of M
St. Paul, MN 55108

Ms. Pam Hunt
WSU-Rochester Center
Hwy 14 East
Rochester, MN 55904

Mr. Bruce Olson
MN Geological Survey
2642 University Ave.
St. Paul, MN 55114-1057

Terry Lee
Olmsted County Health
1650 4th St. S.E.
Rochester, MN 55904

Mr. Ed Fich
U.S. Army Corps of Engineers
St. Paul District
1135 U.S. Post Office and Custom House
St. Paul, MN 55104-1479

Mr. Tom Davenport
U.S. EPA-Region V
230 South Dearborn St.
5-WQS-TUB-8
Chicago, IL 60604

Dr. Richard Sauer, Director
Ag. Exper. Station
820 Coffey Hall
St. Paul, MN 55108

Mr. Marcel Jouseau
Met. Council
300 Metro Square Bldg.
7th and Robert St.
St. Paul, MN 55101

Mr. David Fricke, Ex. Dir.
MN Assn. of Townships
Box 267
St. Michael, MN 55376

Mr. Don Slater, Ex. Dir.
League of MN Cities
183 Univ. Ave. East
St. Paul, MN 55101

Mr. Greg Larson
Board of Water & Soil Resources
90 West Plato Blvd.
St. Paul, MN 55107

Mr. Morris J. Anderson
Ex. Dir.
Assn. of MN Co.
555 Park Street, Suite 300
St. Paul, MN 55103

Ms. Deb Pile
MN State Planning Agency
100 Capitol Square
550 Cedar St.
St. Paul, MN 55101

Mr. Donald Friedrich, Dir.
USDA Ag. Stabilization &
Cons. Service
316 N. Robert St.
St. Paul, MN 55101

Mr. Frank Pafko
MN Department of Transportation
704 Transportation Building
John Ireland Blvd.
St. Paul, MN 55155

Mr. Stan Smith
U.S. Fish & Wildlife Service
400 Sibley St., Suite 50
St. Paul, MN 55101

Mr. Tomas Klaseus
MN Department of Health
717 Delaware St. S.E.
Minneapolis, MN 55440

Mr. Jon DeGroot
USDA Soil Cons. Service
316 N. Robert St.
St. Paul, MN 55101

Mr. Greg Buzicky
MN Department of Ag.
90 West Plato
St. Paul, MN 55107

Ogbazghi Sium
MN Department of Natural Resources
500 Lafayette Road
St. Paul, MN 55101

Mr. Dick Siefert
U.S. Environmental Research Lab
6201 Congdon Blvd.
Duluth, MN 55804

Mr. Tom Noyes
McCombs-Frank-Roos and Associates
15050 23rd Avenue North
Plymouth, MN 55447

Mr. Daryl Franklin
Austin/Mower County Planning Dept.
Mower County Courthouse
201 1st N.E.
Austin, MN 55192

Ms. Mary Peterson
Executive Director
MASWCD
1884 Como Avenue
St. Paul, MN 55108

Mr. Tim Howard
City of Duluth
Park and Recreation Dept.
Room 330
City Hall
Duluth, MN 55802

Ms. Linda Lehman
L. Lehman and Associates
1103 West Burnsville Pkwy.
Suite 107
Burnsville, MN 55337

Mr. Jay Heffern
Chief Council
Metropolitan Council
300 Metro Square Bldg.
7th and Robert Streets
St. Paul, MN 55101

Mr. Dennis O. Hanson
Area Wildlife Office
1601 Minnesota Drive
Brainerd, MN 56401-3970

Dr. Calvin R. Fremling
Pasteur Hall
Winona State University
Winona, MN 55987

Mr. Dale Watson
Rieke, Carroll, Mueller and Assoc., Inc.
10901 Red Circle Drive
P.O. Box 130
Minnetonka, MN 55343

Mr. Alan Rindells
Warzym Eng., Inc.
715 Florida Avenue
Suite 306
Minneapolis, MN 55426

Mr. Mark Deutschman
HDR Engineering
300 Park Dale One Building
5401 Gamble Drive
Minneapolis, MN 55416-1518

Mr. Lawrence Samsted
L.M.R.W.D.
1221 4th Avenue E. #415
Shakopee, MN 55379

Mr. Harlan Vanwyke
9401 Fernbrooke
Maple Grove, MN 5536(

Mr. John Schiller
Route 2, Box 160
Pine City, MN 55063

Ms. Martha Brand
Leonard and Deinord
100 S. 5th St.
Suite 1500
Minneapolis, MN 55402

Ms. Barb Schmidt
Asst. Director
Dakota County Parks Department
8500 127th St. E.
Hastings, MN 55033

Mr. Bob Dunn
708 4th Street S.
Princeton, MN 55371

Mr. John Forest
Dakota County Dept. of Planning and
Program Management
7300 West 147th St., Suite 503
Apple Valley, MN 55124

Mr. Dennis Kim
Enviroscience, Inc.
8951 West 36th St.
Suite H
Minneapolis, MN 55426

Mr. Keith M. Knutson
Dept. of Biological Sciences
St. Cloud State University
St. Cloud, MN 56301

Ms. Diane Jensen
Clean Water Action Project
2395 University Ave. West
St. Paul, MN 55114

City of La Crescent
Gary E. Bruggeman
315 Main St.
P.O. Box 142
La Crescent, MN 55947

E. Calvin Alexander, Jr., Prof.
Dept. of Geology & Geophysics
30 A Pillsbury Hall
U of M
Minneapolis, MN 55455

Mr. Steve Dingels
KLGR
P.O. Box 65
Redwood Falls, MN 56282

Mr. Thomas L. Andinig
Assoc. Director
Center for Urban and Reg. Affairs
330 Hubert H. Humphrey Center
U of M
Minneapolis, MN 55455

Ms. Mary Kells
Tri-County Cons. Project
3700 W. Division Street
St. Cloud, MN 56301

Pat L. Brezonik, Prof.
Dept. of Civil & Min. Eng.
Water Resources Research Center
U of M
866 Biological Science Center
St. Paul, MN 55108

Mr. Hal Runke
Barr Eng. Company
7803 Glenroy Road
Minneapolis, MN 55435

Mr. Brian Christenson
Hickok & Associates
545 Indian Mound
Wayzata, MN 55391

Mr. John Kruger
Rice Co. Env. Health
P.O. Box 40
Rice County Hwy Bldg.
Fairbault, MN 55021

Mr. Tim Chmielewski
Wenck & Associates
832 Twelve Oaks Center
1550 Wayzata Blvd.
Wayzata, MN 55391

Mr. Skip Hyberg
RTD-ERS
1301 NY Ave. NW
Washington, D.C. 20005-4788

Mr. Greg Larson
WES MN RCD ASSN
910 Hwy 29 North
Alexandria, MN 56308

Ms. Pam Landers
Env. Ed. Council
1601 Minnesota Drive
Brainerd, MN 56401

Mr. Terry Noonan
Ramsey County Parks Dept.
3377 North Rice St.
St. Paul, MN 55126

Dr. Richard R. Anderson
Rt. 8, Box 600
St. Cloud, MN 56301

Mr. Edward Council
Dept. of Air Force
Air Force Reg. Civil Eng.
Central Region
1114 Commerace St.
Dallas, TX 75242

Ms. Julie Myhre
Hedlund Eng.
9201 E. Bloomington Freeway
Bloomington, MN 55420

E. Pessenda
Kosakls Bar
206 W. Lake St.
Chisholm, MN 55719

Mr. Andrew Lindquist
Route 1
Fergus Falls, MN 56537

Mr. Robert T. Brown, Dir.
Lake Minnetonka Cons. Dist.
402 East Lake St.
Wayzata, MN 55391

Mr. Brian Gramentz
650 Northgate
P.O. Box 246
Winsted, MN 55395

Mr. Mike Ayers
Washington Co. Com. Health Serv.
2000 Industrial Blvd.
Stillwater, MN 55082

Mr. John Arthur
U.S. EPA
Env. Research Lab. Duluth
6201 Congdon Blvd.
Duluth, MN 55804

Mr. Jim Halloran
COLA
47 Ojibawa Road
Brainerd, MN 56401

U.S. Forest Serv.
Superior Nat. Forest
515 W. First St.
Duluth, MN 55805

Mr. Gerald Lacey
Route 1, Box 64
Wendell, MN 56590

Ms. Nancy Salmineu
Chippewa Nat. Forest
Box 244, Route 3
Cass Lake, MN 56633

Countryside Council
P.O. Box 78
Marshall, MN 56258

Mr. Lowell Enerson
Box 803
Thief River Falls, MN 56701

Ms. Pamela Hunt
Winona St. University
Rochester Center
859 30th Ave. S.E.
Rochester, MN 55904

Mr. Lance Yohe
Int. Coalition
Box 127
119 South 5th St.
Moorhead, MN 56560

Mr. Henry Quade
Biology Dept. Mankato State Univ.
Mankato, MN 56601

Mr. C. Merle Anderson
Route 1
St. James, MN 56081

Mr. Terry Reuben
R.R. 1, Box 3A
Arco, MN 56113

Mr. Lester Anderson
Route 3, Box 30
Mapleton, MN 56065

Mr. Lee Wallace
Stearns County
Box 13
St. Cloud, MN 56302

Mr. William Bryson
Route 2, Box 181
Alden, MN 56009

Mr. Milford Gentz
Route 1, Box 85
Lakefield, MN 56150

Mr. Frank Jungas
Box 497
Mountain Lake, MN 56159

Ms. Kathleen Krautkremer
320 - 9th St. N.E.
Grand Rapids, MN 55744

Mr. Ed Hessler, Dir.
MN Env. Sciences Foundation
2395 University Ave. #312
St. Paul, MN 55114

Mr. Doug Hethercut
Clean Water Action Project
2395 University Ave. #306
St. Paul, MN 55114

Mr. Donald Banks
Route 2, Box 434
Cannon Falls, MN 55009

Mr. Gunnar Isberg
2122 Campus Drive
Rochester, MN 55902

Mr. Myron Standke
Route 4
Owatonna, MN 55060

Mr. Rick Hanna
202 East Jackson
Mankato, MN 56001

Mr. Daniel Arndt
320 Park St.
Owatonna, MN 55060

Mr. Jon Rippke
515 North Front St.
Mankato, MN 56001

Mr. Scott Golberg
590 Dunnell Drive
Owatonna, MN 55060

Mr. Reid Carron, President
Burnside Property Owners Assn.
Faegere and Benson
2300 Multifoods Tower
Minneapolis, MN 55402

Ms. Marla Watje
Route 1
Waseca, MN 56093

Libby Osnes
106 Lynn Lane
Mankato, MN 56001

John Bruender
RR. L Box 22
Eagle Lake, MN 56024

Paul Karpinsky
82 Meadowbrook Ct.
N. Mankato, MN 56001

San Evans
W.C. Expt. Station
U. of M Morris
Morris, MN 56267

Tom E. Anderson
Box 288
Benson, MN 56215

Mark Schweer
100 Cedar #309
Mankato, MN 56001

Doug Fastren
424 S. 4th St.
Mankato, MN 56001

Ronald Otto
RR1, Box 128
Winsted, MN 55395

Steve Dimmel
Rte. 2, Box 14
Janesville, MN 56048

Copied from Handwritten List

Gail Gilman Waldner
1112 - 17th St. South
New Ulm, MN 56073

Gary Elsner
2001 Haughton Ave.
N. Mankato, MN 56001

Kent Thiesse
Blue Earth Co. Ext. Office
410 So. Fifth St.
Mankato, MN 56001

Dave Holmin
111 Valley View Ct.
N. Mankato, MN 56001

Charles Biggar
1200 4th Ave. S.E.
Waseca, MN 56093

Don Schaefer
RR 2, Box 202C
New Ulm, MN 56073

Gary Elsner
2001 Haughton Ave. N.
Mankato, MN 56001

Dan Jones
301 Hilton Dr.
Mankato, MN 56001

Dave Holmin
111 Valley View Ct. N.
Mankato, MN 56001

Sheldon Christenson
301-110 Lane
Coon Rapids, MN 55433

copies from Handwritten List

Jim Van Alstine
R. R. 1
Morris, MN 56267

Robin Raske
1211 Highland Ave.
Mankato, MN 56001

Richard Walker
Rt. 1
Hancock, MN 56244

Boyd Fuller
454 Fourth Ave. N.W.
Waseca, MN 56093

Tom E. Anderson
Box 288
Benson, MN 56215

Thomas Kujawa
111 Parkway Ave. Apt. 301
Mankato, MN 56001

Jeanine Stanis
Rt. 1, Box 19
Paynesville, MN 56362

Leonard Pikal
Box 53
Brownton, MN 55312

Mike Hebighorst
1219 E. Main
Mankato, MN 56001

Ronald Otto
RR1, Box 128
Winsted, MN 55395

Copies from Handwritten List

William Merrit
Box 177
Minneota, MN 56264

Wendy Wayne
Stevens SWCD
RR 2, Box D
Morris, MN 56267

J. Kenneth Myers
414 N. 6th St.
Marshall, MN 56758

Jim Dickrell
The Farmer Magazine
1999 Shepard Rd.
St. Paul, MN 55116

Jon Roeschlein
1700 Third Ave. So. Room 205
Wheaton, MN 56296

Greg Larson
910 Hwy 29 N.
Alexandria, MN 56308

Randy Apfelbeck
UMRWD Ag. Service Center
Ortonville, MN 56278

J. Allan Anderson
P. O. Box 71
Morris, MN 56267

Sam Evans
W.C. Expt. Station
U. of M. Morris
Morris, MN 56267

Harold Luthi
Rt 3, Box 131
Morris, MN 56267

Copy from Hackensack Fish

Mr. Ernest E. Rautio
P. O. Box 148
Audubon, MN 56511

Ray Bisek
RRt. Box 77
Mahnomen, MN 56557

Ken Pazdernik
Courthouse
Ada, MN 56510

Caryle Holen
Rm 109 ARC U of M
Crookston, MN 56716

Franklin McAdam
H C 06
Park Rapids, MN 56470

Phil Nesse
Courhouse
Mahnomen, MN 56557

Bruce Josten
914 - 8th Ave. N.
Moorhead, MN 56560

Bobby Holder
Univ. of MN - N.W. ES
Crookston, 56716

Del Hanson
Box 787
Detroit Lakes, MN 56501

Jim Mott
Minnkota Power
Grand Forks, N.D. 58201

Tim Magnasson
807 N. 11th St.
Moorhead, MN 56560

George Potlla
Rt. 1, Box 475 G
Detroit Lakes, MN 56501

Edith Kufus
HC 06
Box 88
Park Rapids, MN 56470

Kevin Adelman (SCS)
Rt. 1
Foley, MN 56329

Doug Blakeman
503 Pleasant Ave.
Park Rapids, MN 56470

Debbie Gindle
Courthouse
Little Falls, MN 56345

Joe Stanley
Box 822
W. Fargo, ND 58078

Mark Gerres
2517 Goettens Way Apt. 103
St. Cloud, MN 56301

Roland Gullekson
R. 1 Box 92
Fertile, MN 56540

Rebekah Wilson
P. O. Box 126
Ogilvie, MN 56358

Peter Fanjul
6616 Crown Pt.
Omaha, NE 68104

Joe Basta
Zoning Office
221 N.W. 2nd Ave.
Cambridge, MN 55008

Mark Traut
151 72nd AVe. So.
St. Cloud, MN 56301

Ann Higgins
League of Mn Cities
183 University AVe. E.
St. Paul, MN 55101

Cheryl Floren
101 - 18th Ave. No.
St. Cloud, MN 56301

Shirley Nowak
McLeod County Commissioner
Rt. 1, Box 64
Silver Lake, MN 55381

Dee Hanisch
1017 - 12th Ave. N.
St. Cloud, MN 56303

P. P. Hensworth
14029 - 15th Ave. N.W.
Rice, MN 56367

Sherry Newell
Box 220
St. Cloud, MN 56302

Lee Wallace
Box 13
St. Cloud, MN 56302

Marybeth Block
Kandiyohi SWLD
409 - 19th Ave. SW
Willmar, MN 56207

Roger Sellman
Co. Agr. Inspector
Almelund, MN 55002

Ronda Hirnyck
Rt. 3, Box 97
Miltona, MN 56354

Otto Hesse
R. 1, Box 24
North Branch, MN 55056

Larry Tjepkes
1003 - 3rd St. N.
St. Cloud, MN 56302

Greg Bengtson
Kanabec SWCD
214 N.W. Railrod AVe.
Mora, MN 55051

James Feddema
P. O. Box 426
Park Rapids, MN 56379

Dee Hanesil
1017 - 12th Ave. N.
St. Cloud, MN 56303

State of Minnesota

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The *State Register* is the official publication of the State of Minnesota, containing executive orders of the governor, proposed and adopted rules of state agencies, official notices to the public, state and non-state public contracts, grants, supreme court and tax court decisions, and a monthly calendar of cases to be heard by the state supreme court.

Volume 11 Printing Schedule and Submission Deadlines

Vol. 11 Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices	Issue Date
11	Monday 31 August	Friday 4 September	Monday 14 September
12	Friday 4 September	Monday 14 September	Monday 21 September
13	Monday 14 September	Monday 21 September	Monday 28 September
14	Monday 21 September	Monday 28 September	Monday 5 October

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Rudy Perpich, Governor

Sandra J. Hale, Commissioner
Department of Administration

Stephen A. Ordahl, Director
Minnesota Documents Division

Robin PanLener, Editor

Paul Hoffman, Assistant Editor

Debbie Kobold, Circulation Manager

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NOTICE: How to Follow State Agency Rulemaking in the *State Register*

The ***State Register*** is the official source, and only complete listing, for all state agency rulemaking in its various stages. State agencies are required to publish notice of their rulemaking action in the ***State Register.*** Published every Monday, the ***State Register*** makes it easy to follow and participate in the important rulemaking process. Approximately 75 state agencies have the authority to issue rules. Each agency is assigned specific ***Minnesota Rule*** chapter numbers.

If an agency seeks outside opinion before issuing new rules or rule amendments, it must publish a NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION in the ***Official Notices*** section of the ***State Register.***

When rules are first drafted, state agencies publish them as **Proposed Rules,** along with a notice of hearing, or notice of intent to adopt rules without a hearing in the case of noncontroversial rules. This notice asks for comment on the rules as proposed. Proposed emergency rules and withdrawn proposed rules are also published in the ***State Register.***

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For a more detailed description of the rulemaking process, see the ***Minnesota Guidebook to State Agency Services.***

Every odd-numbered year the ***Minnesota Rules*** are published. This is a ten-volume bound collection of all adopted rules in effect at the time. Supplements are published to update this set of rules. Proposed and adopted emergency rules do not appear in this set because of their short-term nature, but are published in the ***State Register.***

The ***State Register*** features partial and cumulative listings of rules in this section on the following schedule: issues 1-13 inclusive; issues 14-25 inclusive; issue 26, cumulative for issues 1-16; issues 27-38 inclusive; issue 39, cumulative for 1-39; issues 40-51 inclusive; and issue 52, cumulative for 1-52. An annual subject matter index for rules appears in August.

For copies of the ***State Register,*** a subscription, the annual index, the ***Minnesota Rules*** or the ***Minnesota Guidebook to State Agency Services,*** contact the Minnesota Documents Division, 117 University Avenue, St. Paul, MN 55155 (612) 297-3000 or toll-free in Minnesota 1-800-652-9747 and ask for "Documents."

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Proposed Rules

Pursuant to Minn. Stat. of 1982, §§ 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless 25 or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules; and
4. that the rule may be modified if the modifications are supported by the data and views submitted.

If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Pursuant to Minn. Stat. §§ 14.29 and 14.30, agencies may propose emergency rules under certain circumstances. Proposed emergency rules are published in the *State Register* and, for at least 25 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Education

Proposed Permanent Rules Relating to Class Size Ratios

Notice of Intent to Adopt a Rule Without a Public Hearing

Notice is hereby given that the State Board of Education intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes*, Sections 14.22 to 14.28. The statutory authority to adopt the rule is Minnesota Statute Section 121.11, Subdivision 12 (1986).

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their requests in writing. Any person requesting a public hearing should state his or her name and address and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, Sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to:

Dr. Susan K. Vaughan
Minnesota Department of Education
645 Capitol Square Building
550 Cedar Street
St. Paul, Minnesota 55101

The proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed.

A copy of the proposed rule is attached to this notice.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Susan Vaughan upon request.

The State Board of Education estimates that there will be no cost to small business or to local school districts in the state in order to implement the proposed rule.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form related to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit a written request to Susan Vaughan.

Dated: 26 August 1987

Dr. Ruth E. Randall, Secretary
State Board of Education

Fiscal Statement

Changes apply to pupil staff ratios of all teachers except secondary music teachers of performing groups. Therefore, a procedure has been identified for submitting written local school board policies when ratios are exceeded.

The State Board of Education estimates that there will be no cost to local school districts in the state in order to implement the proposed rule.

The previous rule was in effect until July 15, 1987. Reports of staffing variances were to be submitted by August 1, 1987. The twelve reports were submitted by August 1, 1987. Thus, there will be little change requiring additional staffing.

Rules as Proposed

3500.3700 SECONDARY SCHOOL STAFF.

Subpart 1. to 3. [Unchanged.]

Subp. 4. **Maximum number of pupils.** The maximum number of pupils per day for a secondary school teacher is 160 except for teachers of performing music groups and physical education classes. An acceptable class size for instruction in physical education shall not exceed 40 pupils. The recommended average number of pupils per day per week for a secondary teacher of performing music groups is 180. A school board must adopt a written policy specifying the circumstances when ~~a~~ the ratio ~~in this subpart~~ for performing music groups may be exceeded. The policy must be adopted and filed with the State Board of Education by August 1 each year. An amendment made by the school board must be filed with the State Board of Education within ten days of its adoption.

Minnesota Housing Finance Agency

Proposed Permanent Rules Relating to the Low Income Persons Living Alone Housing Program

Notice of Intent to Adopt Rules Without a Public Hearing

Notice is hereby given that the Minnesota Housing Finance Agency ("agency") proposes to adopt the above-entitled rules without a public hearing. The agency has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedure set forth in *Minnesota Statutes*, Sec. 14.21 to 14.28.

Persons interested in these rules shall have 30 days to submit comments in support of or in opposition to the proposed rules within the 30-day comment period. Such comments are encouraged, and should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. The proposed rule may be modified as the result of comments received if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language. Unless twenty-five or more persons submit written requests for a public hearing on the proposed rule within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of *Minnesota Statutes*, Sec. 14.14 *et. seq.* Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed.

Persons who wish to submit comments or a written request for a public hearing should submit such comments or request to:

Kathleen J. Johnson
Legal Division
Minnesota Housing Finance Agency
Suite 300
400 Sibley Street
St. Paul, Minnesota 55101
Telephone: 612/296-9794

Authority for the adoption of these rules is contained in *Minnesota Statutes*, Sec. 462A.06, Subd. 4 and 11. Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules, and that identifies the data and information relied upon to support the proposed rules has been prepared and is available from Kathleen J. Johnson upon request.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, the Statement of Need and Reasonableness, all written comments received, and the final rules as adopted will be delivered to a designee of the Attorney General for review as to form and legality, including the issue of substantial change, and to determine whether the agency has the authority to adopt the rules and whether the record demonstrates a rational basis for the need for and reasonableness of the proposed rules. Persons who wish to receive notice of the date of submission of these rules to the Attorney General for review, or who wish to receive a free copy of the final rules as adopted, should make such requests to Kathleen J. Johnson.

A copy of the proposed rule is attached to this notice. Additional copies may be obtained by contacting Kathleen J. Johnson.

Please be advised that Minnesota Statutes Ch. 10A.03 requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he or she commences lobbying. A lobbyist is defined in *Minnesota Statutes*, Sec. 10A.01, Subd. 11 as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250.00, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than $250.00, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155 (612) 296-5615.

Dated: 11 September 1987

James J. Solem
Commmissioner

Rules as Proposed (all new material)

4900.1900 SCOPE.

Parts 4900.1900 to 4900.1915 govern the implementation of the Low Income Persons Living Alone Housing Program.

4900.1905 DEFINITIONS.

Subpart 1. **Scope.** The terms used in parts 4900.1900 to 4900.1915 have the meanings given them in this part.

Subp. 2. **Agency.** "Agency" means the Minnesota Housing Finance Agency.

Subp. 3. **Applicant.** "Applicant" means one or more entities that submit an application to the agency for a grant to assist in the development of housing for low income persons living alone.

Subp. 4. **Application.** "Application" means a submittal requesting a grant of funds to pay up to 50 percent of the development costs of residential housing for low income persons living alone.

Subp. 5. **Low Income Persons Living Alone Housing Program or program.** "Low Income Persons Living Alone Housing Program" or "program" means the agency's plan and procedures designed to provide grants to eligible applicants for the development of residential housing for low income persons living alone.

Subp. 6. **Low income persons living alone.** "Low income persons living alone" means those persons:

A. who do not share a residence with a minor child;

B. who are not eligible for admission to lower income housing under United States Code, title 42, section 1437a, as an elderly, disabled, or handicapped person; and

C. whose annual gross income does not exceed 150 percent of the poverty line established by the United States Office of Management and Budget.

4900.1910 ELIGIBILITY.

Subpart 1. **Applications.** To be eligible for selection as a recipient of a grant under the program, the application must satisfy the following requirements:

A. The proposed residential housing must be exclusively for the use of low income persons living alone.

B. The occupants of the residential housing must be offered a written lease that:

(1) complies with Minnesota Statutes, section 325G.31;

(2) offers the occupant the option to renew;

(3) prohibits eviction of an occupant without good cause; and

(4) does not require the occupant to accept board as well as lodging.

C. The amount of the grant requested must not exceed 50 percent of the total development cost of the proposed residential housing.

D. The application must include a comprehensive plan for the development and management of housing for low income persons living alone and document the ability of the applicant to develop and maintain that housing for a period of time specified by the agency. At a minimum, this plan must include:

(1) documentation of a need for this type of housing in the proposed geographic area;

(2) a description of the applicants' goals and objectives in meeting the area's need for this type of housing;

(3) a detailed description of how this housing will be developed and managed, including:

(a) a description of the proposed site for the housing;

(b) preliminary architectural plans for the development;

(c) qualifications of the development and management staff; and

(d) a proposed tenant selection plan;

(4) a detailed budget for the development of the proposed housing showing all development costs and the sources of funds to pay them;

(5) a detailed budget for the operation of the housing showing all anticipated operating costs and the proposed rents and other income;

(6) documentation of the experience and fiscal responsibility of the applicant in developing similar housing; and

(7) evidence of community support for the proposed development.

Subp. 2. **Applicant.** To be eligible for selection as a recipient of a grant under the program, an applicant must be either:

A. a Minnesota city;

B. a joint powers board established by two or more Minnesota cities;

C. a Minnesota Housing and Redevelopment Authority created under Minnesota Statutes, sections 462.415 to 462.705; or

D. a Minnesota nonprofit entity as defined in part 4900.0010, subpart 21.

4900.1915 SELECTION CRITERIA.

The agency will take the following criteria into consideration when determining whether an application and applicant will be selected for a grant under the program:

A. the prior experience of the applicant in development and managing similar residential housing;

B. the extent to which grant funds are combined with other funds from private or public sources to make the development economically feasible;

C. the ability of the applicant to proceed expeditiously with the development;

D. the documented need for this type of residential housing in the proposed geographic area;

E. the cost and quality of the proposed housing;

F. the extent to which the amount of rent to be charged is less than 30 percent of the income of the low income person leasing the housing unit;

G. the geographic area to be serviced, to the end that a reasonable distribution of low income housing for persons living alone can be achieved; and

H. the extent of community support for this type of development.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

State Board of Vocational Technical Education

Proposed Permanent Rules Relating to Postsecondary Vocational Licensure; Business and Office Occupations

Notice of Intent to Adopt a Rule Without a Public Hearing

Notice is hereby given that the State Board of Vocational Technical Education intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes*, sections 14.22 to 14.28. The statutory authority to adopt the rule is *Minnesota Statutes* 136c.04, Subdivision 9.

All persons have 30 days until 4:30 p.m. October 14th, 1987 in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to:

Helen Henrie, Deputy Director
Minnesota Technical Institute System
565 Capitol Square Building
550 Cedar Street
St. Paul, MN 55101

Georgia Pomroy, License Revision
Minnesota Technical Institute System
565 Capitol Square Building
550 Cedar Street
St. Paul, MN 55101

The proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed.

(A copy of the proposed rule is attached to this notice.)

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Helen Henrie or Georgia Pomroy upon request.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit written request to:

Helen Henrie, Deputy Director
Minnesota Technical Institute System
565 Capitol Square Building
550 Cedar Street
St. Paul, MN 55101

Georgia Pomroy, License Revision
Minnesota Technical Institute System
565 Capitol Square Building
550 Cedar Street
St. Paul, MN 55101

Dated: 4 September 1987

Helen Henrie, Deputy Director
Minnesota Technical Institute System

Rules as Proposed (all new material)

3700.0300 LICENSES IN THE BUSINESS AND OFFICE OCCUPATIONAL AREA.

Subpart 1. **Listed here.** An applicant for a license to teach postsecondary vocational courses and programs in the business and office occupational area must meet the requirements in this part. These requirements are in addition to the requirements listed in part 3700.0100 and for a particular license (listed under the part that covers that particular license).

Subp. 2. **Recent occupational experience.** An applicant for a license to teach in the business and office occupational area must have 2,000 hours of occupational experience within the five years just before applying for that license.

Subp. 3. **Does not apply.** Part 3515.9920 does not apply to parts 3700.0305 to 3700.0365.

3700.0305 ACCOUNTING LICENSE.

Subpart 1. **May teach.** A teacher who has an accounting license may teach in the accounting and bookkeeping programs and may also teach courses in:

A. accounting principles and procedures;

B. bookkeeping principles and procedures;

C. business law;

D. business and marketing mathematics;

E. automated accounting;

F. payroll and personal finance;

G. principles of economics;

H. introduction to business;

I. analyzing financial statements;

J. introduction to computer operations; and

K. personal or individual income tax.

Subp. 2. **Other requirements.** The applicant must meet the requirements listed in part 3700.0100 and the requirements for a teacher in the business and office area under part 3700.0300.

Subp. 3. **Occupational experience requirement.** The applicant must have 8,000 hours of occupational experience in one or more of the areas listed in items A to F. The 8,000 hours may include the 2,000 hours required under part 3700.0300, subpart 2:

A. accountant;

B. accountant manager;

C. city finance officer;

D. controller or assistant controller;

E. internal, external, or government auditor; and

F. cost, budget, managerial cost, public, or staff accountant.

Subp. 4. **Substitution for occupational experience.** The applicant may substitute the education described in items A to D for up to 4,000 hours of the occupational experience required in subpart 3. The education must be from an accredited postsecondary institution. If the substitution is made, the applicant must still comply with the recency requirements in part 3700.0300, subpart 2.

A. A bachelor's or higher degree in accounting or business administration may be substituted for 4,000 hours.

B. An associate degree in accounting may be substituted for 2,000 hours.

C. A diploma in accounting or with an accounting prefix may be substituted. A one-year program equals 1,050 hours. A two-year program equals 2,100 hours.

D. The completion of courses for credit or clock hours for credit with an accounting or business administration title or prefix may be substituted. One hour of instruction equals one hour of occupational experience. One quarter credit equals 20 hours of occupational experience. One semester credit equals 30 hours of occupational experience.

Subp. 5. **Substitution for recent occupational experience.** The applicant may substitute teaching experience at an accredited postsecondary institution or in an industrial or military setting in advanced level accounting for 1,500 hours of the 2,000 required under part 3700.0300, subpart 2. Two hours of teaching equal one hour of the occupational experience required in part 3700.0300, subpart 2.

3700.0310 BOOKKEEPING LICENSE.

Subpart 1. **May teach.** A teacher who has a bookkeeping license may teach in the bookkeeping, bookkeeping clerk, accounting clerk, and microcomputer account specialist clerk programs, and may also teach courses in:

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

A. bookkeeping principles and procedures;

B. business and marketing mathematics;

C. calculating machines;

D. automated bookkeeping;

E. payroll and personal finance; and

F. personal or individual income tax.

Subp. 2. **Other requirements.** The applicant must meet the requirements listed in part 3700.0100 and the requirements for a teacher in the business and office area under part 3700.0300.

Subp. 3. **Occupational experience requirement.** The applicant must have 8,000 hours of occupational experience in one or more of the areas listed in items A to N. The 8,000 hours may include the 2,000 hours required under part 3700.0300, subpart 2:

A. accountant;

B. accounting clerk;

C. accountant manager;

D. accounts payable clerk;

E. accounts receivable clerk;

F. audit clerk;

G. bookkeeper;

H. city finance officer;

I. controller or assistant controller;

J. payroll bookkeeper or clerk;

K. internal, external, or government auditor;

L. billing clerk;

M. cost clerk; and

N. cost, budget, managerial cost, public, or staff accountant.

Subp. 4. **Substitution for occupational experience.** The applicant may substitute the education described in items A to D for up to 4,000 hours of the occupational experience required in subpart 3. The education must be from an accredited postsecondary institution. If the substitution is made, the applicant must still comply with the recency requirements in part 3700.0300, subpart 2.

A. A bachelor's or higher degree in accounting, business education, or business administration may be substituted for 4,000 hours.

B. An associate degree in accounting, bookkeeping, business administration, or business education may be substituted for 2,000 hours.

C. A diploma in accounting or bookkeeping may be substituted. A one-year program equals 1,050 hours. A two-year program equals 2,100 hours.

D. The completion of courses for credit or clock hours for credit from an approved postsecondary institution or from professional accounting associations, with an accounting, bookkeeping, or business administration title or prefix may be substituted. One hour of instruction equals one hour of occupational experience. One quarter credit equals 20 hours of occupational experience. One semester credit equals 30 hours of occupational experience.

Subp. 5. **Substitution for recent occupational experience.** The applicant may substitute teaching experience at an accredited postsecondary institution or in an industrial or military setting in advanced level bookkeeping or accounting for 1,500 hours of the 2,000 required under part 3700.0300, subpart 2. Two hours of teaching equal one hour of the occupational experience required in part 3700.0300, subpart 2.

3700.0315 BANKING AND FINANCE OPERATIONS LICENSE.

Subpart 1. **May teach.** A teacher who has a banking and finance operations license may teach in the banking and finance operations program and may also teach courses in:

A. analyzing financial statements;

B. personal bank services;

C. personal financial planning;

D. negotiable instruments;

E. principles of credit, collection, and insurance;

F. business law;

G. financial institution operations;

H. business math and machines;

I. money handling techniques; and

J. principles of economics.

Subp. 2. **Other requirements.** The applicant must meet the requirements listed in part 3700.0100 and the requirements for a teacher in the business and office area under part 3700.0300.

Subp. 3. **Occupational experience requirement.** The applicant must have 8,000 hours of occupational experience in financial institutions in one or more of the areas listed in items A to F. The 8,000 hours may include the 2,000 hours required under part 3700.0300, subpart 2:

A. branch manager;

B. cashier;

C. commercial, real estate, or personal loan officer, each with operations experience;

D. operations officer;

E. personal banker; and

F. retail banking officer.

Subp. 4. **Substitution for occupational experience.** The applicant may substitute education described in items A to D for up to 4,000 hours of the occupational experience required in subpart 3. The education must be from an accredited postsecondary institution. If the substitution is made, the applicant must still comply with the recency requirements in part 3700.0300, subpart 2.

A. A bachelor's or higher degree in banking and/or finance, economics, management and finance, accounting, business administration, or management and information systems may be substituted for 4,000 hours.

B. An associate degree in banking, accounting, banking and finance, or credit and finance may be substituted for 2,000 hours.

C. A diploma in banking, banking and finance, or credit and finance may be substituted. A one-year program equals 1,050 hours. A two-year program equals 2,100 hours.

D. The completion of courses for credit or clock hours for credit with a banking title or prefix may be substituted. The courses for credit or clock hours for credit must be from an accredited postsecondary institution or sponsored by local, state, or national professional financial organizations. One hour of instruction equals one hour of occupational experience. One quarter credit equals 20 hours of occupational experience. One semester credit equals 30 hours of occupational experience.

Subp. 5. **Substitution for recent occupational experience.** The applicant may substitute teaching experience at an accredited postsecondary institution or in an industrial or military setting in banking and finance/agriculture, banking and finance operations or finance and credit for 1,500 hours of the 2,000 required under part 3700.0300, subpart 2. Two hours of teaching equal one hour of the occupational experience required in part 3700.0300, subpart 2.

3700.0320 BANKING AND FINANCE OPERATIONS/AGRICULTURE LICENSE.

Subpart 1. **May teach.** A teacher who has a banking and finance operations/agriculture license may teach in the banking and finance operations/agriculture program and may also teach courses in:

A. agricultural credit;

B. bank agricultural terminology;

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C. analyzing financial statements;

D. personal bank services;

E. personal financial planning;

F. negotiable instruments;

G. principles of credit, collection, and insurance;

H. business law;

I. financial institution operations;

J. business math and machines;

K. money handling techniques; and

L. principles of economics.

Subp. 2. **Other requirements.** The applicant must meet the requirements listed in part 3700.0100 and the requirements for a teacher in the business and office area under part 3700.0300.

Subp. 3. **Occupational experience requirement.** The applicant must have 8,000 hours of occupational experience in financial institutions in the areas listed in items A to G. At least 2,000 of the 8,000 hours must be in agricultural financial institutions. The 8,000 hours may include the 2,000 hours required under part 3700.0300, subpart 2:

A. financial agricultural representative;

B. branch manager;

C. cashier;

D. agricultural, commercial, real estate, or personal loan officer, each with operations experience;

E. operations officer;

F. personal banker; and

G. retail banking officer.

Subp. 4. **Substitution for occupational experience.** The applicant may substitute education described in items A to D for up to 4,000 hours of the occupational experience required in subpart 3. The education must be from an accredited postsecondary institution. If the substitution is made, the applicant must still comply with the recency requirements in part 3700.0300, subpart 2.

A. A bachelor's or higher degree in agricultural management banking, and/or finance, banking and/or finance, economics, management and finance, accounting, business administration, or management and information systems may be substituted for 4,000 hours.

B. An associate degree in banking, accounting, banking and finance, or credit and finance may be substituted for 2,000 hours.

C. A diploma in banking, banking and finance, accounting, or credit and finance may be substituted. A one-year program equals 1,050 hours. A two-year program equals 2,100 hours.

D. The completion of courses for credit or clock hours for credit with a banking title or prefix may be substituted. The courses for credit or clock hours for credit must be from an accredited postsecondary institution or sponsored by local, state, or national professional financial organizations. One hour of instruction equals one hour of occupational experience. One quarter credit equals 20 hours of occupational experience. One semester credit equals 30 hours of occupational experience.

Subp. 5. **Substitution for recent occupational experience.** The applicant may substitute teaching experience at an accredited postsecondary institution or in an industrial or military setting in banking and finance/agriculture, banking and finance operations, or finance and credit for 1,500 hours of the 2,000 required under part 3700.0300, subpart 2. Two hours of teaching equal one hour of the occupational experience required in part 3700.0300, subpart 2.

3700.0325 BUSINESS ADMINISTRATIVE MANAGEMENT LICENSE.

Subpart 1. **May teach.** A teacher who has a business administrative management license may teach in the business administrative management program and may also teach courses in:

A. business math and machines;

B. business management principles;

C. business law;

D. customer relations;

E. analyzing financial statements;

F. job keeping and seeking skills;

G. principles of office management;

H. principles of economics;

I. small business operation;

J. supervisory skills;

K. time management;

L. personnel management; and

M. introduction to computer operations.

Subp. 2. **Other requirements.** The applicant must meet the requirements listed in part 3700.0100 and the requirements for a teacher in the business and office area under part 3700.0300.

Subp. 3. **Occupational experience requirement.** The applicant must have 8,000 hours of occupational experience in one or more of the areas listed in items A to E. The 8,000 hours may include the 2,000 hours required under part 3700.0300, subpart 2:

A. assistant office manager;

B. business owner and operator;

C. business manager;

D. office manager; and

E. retail store manager or assistant, each with supervision of a minimum of ten persons.

Subp. 4. **Substitution for occupational experience.** The applicant may substitute education described in items A to D for up to 4,000 hours of the occupational experience required in subpart 3. The education must be from an accredited postsecondary institution. If the substitution is made, the applicant must still comply with the recency requirements in part 3700.0300, subpart 2.

A. A bachelor's or higher degree in business administration; business management; business education; economics; general business; office administration; or marketing, management, and finance may be substituted for 4,000 hours.

B. An associate degree in business management, business administration, or business supervision may be substituted for 2,000 hours.

C. A diploma in business administrative management or business supervision may be substituted. A one-year program equals 1,050 hours. A two-year program equals 2,100 hours.

D. The completion of courses for credit or clock hours for credit with a business management, administration, or supervision title or prefix may be substituted. One hour of instruction equals one hour of occupational experience. One quarter credit equals 20 hours of occupational experience. One semester credit equals 30 hours of occupational experience.

Subp. 5. **Substitution for recent occupational experience.** The applicant may substitute teaching experience at an accredited postsecondary institution or in an industrial or military setting in business administration, management, or supervision for 1,500 hours of the 2,000 required under part 3700.0300, subpart 2. Two hours of teaching equal one hour of the occupational experience required in part 3700.0300, subpart 2.

3700.0330 ADMINISTRATIVE SUPPORT LICENSE.

Subpart 1. **May teach.** A teacher who has an administrative support license may teach in the administrative support, clerk typist, office assistant, receptionist, word processing secretary, general secretary, administrative secretary, and clerical data entry programs and may also teach courses in:

A. written and oral business communications;

B. business math and machines;

C. job seeking and keeping skills;

D. keyboarding/typing;

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E. office management;

F. office procedures;

G. filing;

H. machine transcription;

I. secretarial accounting;

J. introduction to computer operations; and

K. word processing.

Subp. 2. **Other requirements.** The applicant must meet the requirements listed in part 3700.0100 and the requirements for a teacher in the business and office area under part 3700.0300.

Subp. 3. **Occupational experience requirement.** The applicant must have 8,000 hours of occupational experience in one or more of the areas listed in items A to E. The 8,000 hours may include the 2,000 hours required under part 3700.0300, subpart 2:

A. administrative office assistant;

B. secretary/stenographer;

C. clerk typist;

D. word processing secretary; and

E. correspondence specialist.

Subp. 4. **Substitution for occupational experience.** The applicant may substitute education described in items A to D for up to 4,000 hours of the occupational experience required in subpart 3. The education must be from an accredited postsecondary institution. If the substitution is made, the applicant must still comply with the recency requirements in part 3700.0300, subpart 2.

A. A bachelor's or higher degree in administrative office management, office management, office systems management, business education, or business management may be substituted for 4,000 hours.

B. An associate degree in professional office management, secretarial, medical secretarial, legal secretarial, secretarial science, word processing, office information processing, administrative secretarial, or personnel assistant may be substituted for 2,000 hours.

C. A diploma in the areas of administrative, clerical, correspondence, legal, medical, or general secretarial; office information processing; or word processing may be substituted. A one-year program equals 1,050 hours. A two-year program equals 2,100 hours.

D. The completion of courses for credit or clock hours for credit with a business title or prefix, or in office management, records management, office procedures, shorthand, transcription, keyboarding/typing, or word processing may be substituted. One hour of instruction equals one hour of occupational experience. One quarter credit equals 20 hours of occupational experience. One semester credit equals 30 hours of occupational experience.

Subp. 5. **Substitution for recent occupational experience.** The applicant may substitute teaching experience at an accredited postsecondary institution or in an industrial or military setting in general office typist or secretarial occupations for 1,500 hours of the 2,000 required under part 3700.0300, subpart 2. Two hours of teaching equal one hour of the occupational experience required in part 3700.0300, subpart 2.

3700.0335 MEDICAL SECRETARIAL LICENSE.

Subpart 1. **May teach.** A teacher who has a medical secretarial license may teach in the medical secretary, word processing secretary, clerk typist, receptionist, medical administrative secretary, general secretary, administrative secretary, and clerical data entry programs and may also teach courses in:

A. secretarial medical ethics and law;

B. medical insurance forms;

C. medical shorthand;

D. medical terminology and shorthand;

E. written and oral business communications;

F. business math and machines;

G. job seeking and keeping skills;

H. keyboarding/typing;

I. office management;

J. office procedures;

K. filing;

L. machine transcription;

M. secretarial accounting;

N. introduction to computer operations; and

O. word processing.

Subp. 2. **Other requirements.** The applicant must meet the requirements listed in part 3700.0100 and the requirements for a teacher in the business and office area under part 3700.0300.

Subp. 3. **Occupational experience requirement.** The applicant must have 8,000 hours of occupational experience in the areas listed in items A and B, with a minimum of 2,000 hours in each. The 8,000 hours may include the 2,000 hours required under part 3700.0300, subpart 2:

A. medical secretary; and

B. administrative medical assistant.

Subp. 4. **Substitution for occupational experience.** The applicant may substitute education described in items A to D for up to 4,000 hours of the occupational experience required in subpart 3. The education must be from an accredited postsecondary institution. If the substitution is made, the applicant must still comply with the recency requirements in part 3700.0300, subpart 2.

A. A bachelor's or higher degree in administrative office management, office management, office systems management, business education, or medical records administration may be substituted for 4,000 hours.

B. An associate degree in secretarial, secretarial science, or medical secretarial may be substituted for 2,000 hours.

C. A diploma in medical secretarial, admissions records technician, or general secretarial program may be substituted for 1,050 hours. A two-year program may be substituted for 2,100 hours.

D. The completion of courses for credit or clock hours for credit with a business title or prefix, or in office management, records management, office procedures, shorthand, transcription, keyboarding/typing, word processing, medical ethics and law, medical insurance forms, medical office procedures, medical shorthand, or medical terminology may be substituted. One hour of instruction equals one hour of occupational experience. One quarter credit equals 20 hours of occupational experience. One semester credit equals 30 hours of occupational experience.

Subp. 5. **Substitution for recent occupational experience.** The applicant may substitute teaching experience at an accredited postsecondary institution or in an industrial or military setting in general office occupations or secretarial occupations for 1,500 hours of the 2,000 required under part 3700.0300, subpart 2. Two hours of teaching equal one hour of the occupational experience required in part 3700.0300, subpart 2.

3700.0340 LEGAL SECRETARIAL OCCUPATIONS LICENSE.

Subpart 1. **May teach.** A teacher who has a legal secretarial license may teach in the legal secretary, word processing secretary, clerk typist, receptionist, clerical data entry, legal administrative secretary, general secretary, and administrative secretary programs and may also teach courses in:

A. machine transcription;

B. legal terminology;

C. legal word processing;

D. written and oral business communications;

E. business math and machines;

F. job seeking and keeping skills;

G. keyboarding/typing;

H. office management;

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I. office procedures;

J. filing;

K. secretarial accounting;

L. business law;

M. introduction to computer operations; and

N. word processing.

Subp. 2. **Other requirements.** The applicant must meet the requirements listed in part 3700.0100 and the requirements for a teacher in the business and office area under part 3700.0300.

Subp. 3. **Occupational experience requirement.** The applicant must have 8,000 hours of occupational experience. 4,000 of the hours must be as a legal secretary. The remaining hours may be in one or more of the areas listed in items A to C. The 8,000 hours may include the 2,000 hours required under part 3700.0300, subpart 2:

A. legal typist;

B. legal stenographer; and

C. legal word processor.

Subp. 4. **Substitution for occupational experience.** The applicant may substitute education described in items A to D for up to 4,000 hours of the occupational experience required in subpart 3, items A to C. The education must be from an accredited postsecondary institution. If the substitution is made, the applicant must still comply with the recency requirements in part 3700.0300, subpart 2.

A. A bachelor's or higher degree in business education or office management may be substituted for 4,000 hours.

B. An associate degree in legal secretarial, paralegal, legal assistant, or secretarial may be substituted for 2,000 hours.

C. A diploma in legal secretarial occupations, secretarial occupations, or word processing may be substituted. A one-year program equals 1,050 hours. A two-year program equals 2,100 hours.

D. The completion of courses for credit or clock hours for credit with a business title or prefix, or in office management, office procedures, shorthand, transcription, typing, word processing, legal office procedures, legal transcription, legal terminology, or legal ethics may be substituted. One hour of instruction equals one hour of occupational experience. One quarter credit equals 20 hours of occupational experience. One semester credit equals 30 hours of occupational experience.

Subp. 5. **Substitution for recent occupational experience.** The applicant may substitute teaching experience at an accredited postsecondary institution or in an industrial or military setting in general office occupations or secretarial occupations for 1,500 hours of the 2,000 required under part 3700.0300, subpart 2. Two hours of teaching experience equal one hour of the occupational experience required in part 3700.0300, subpart 2.

3700.0350 PURCHASING OR INVENTORY MANAGEMENT LICENSE.

Subpart 1. **May teach.** A teacher who has a purchasing or inventory management license may teach in the purchasing or inventory management program and may also teach courses in:

A. business math and machines;

B. principles of economics;

C. computer inventory control;

D. business inventory control; and

E. business principles.

Subp. 2. **Other requirements.** The applicant must meet the requirements listed in part 3700.0100 and the requirements for a teacher in the business and office area under part 3700.0300.

Subp. 3. **Occupational experience requirement.** The applicant must have 8,000 hours of occupational experience in one or more of the areas listed in items A to F. The 8,000 hours may include the 2,000 hours required under part 3700.0300, subpart 2:

A. buyer or senior buyer;

B. materials manager;

C. purchasing agent;

D. purchasing director;

E. purchasing manager; and

F. expediter with buying responsibility.

Subp. 4. **Substitution for occupational experience.** The applicant may substitute education described in items A to D for up to 4,000 hours of the occupational experience required in subpart 3. The education must be at an accredited postsecondary institution. If the substitution is made, the applicant must still comply with the recency requirements in part 3700.0300, subpart 2.

A. A bachelor's or higher degree in marketing, business administration or management, or finance may be substituted for 4,000 hours.

B. An associate degree in marketing, or business administration or management may be substituted for 2,000 hours.

C. A diploma in purchasing or inventory management may be substituted. A one-year program equals 1,050 hours. A two-year program equals 2,100 hours.

D. The completion of courses for credit or clock hours for credit with a business administration or management, accounting, marketing, or economics title or prefix may be substituted. One hour of instruction equals one hour of occupational experience. One quarter credit equals 20 hours of occupational experience. One semester credit equals 30 hours of occupational experience.

Subp. 5. **Substitution for recent occupational experience.** The applicant may substitute teaching experience at an accredited postsecondary institution or in an industrial or military setting in purchasing or inventory management for 1,500 hours of the 2,000 required under part 3700.0300, subpart 2. Two hours of teaching equal one hour of the occupational experience required in part 3700.0300, subpart 2.

3700.0355 TRAFFIC TRANSPORTATION MANAGEMENT LICENSE.

Subpart 1. **May teach.** A teacher who has a traffic transportation management license may teach in the traffic transportation management program and may also teach courses in:

A. business math and machines;

B. traffic office procedures, terminology, and forms;

C. business principles;

D. business law;

E. introduction to business;

F. job seeking and keeping skills; and

G. filing.

Subp. 2. **Other requirements.** The applicant must meet the requirements listed in part 3700.0100 and the requirements for a teacher in the business and office area under part 3700.0300.

Subp. 3. **Occupational experience requirement.** The applicant must have 8,000 hours of occupational experience in one or more of the areas listed in items A to C, with a minimum of 2,000 hours in at least one area. The 8,000 hours may include 2,000 hours required under part 3700.0300, subpart 2:

A. traffic customer service representative;

B. dispatcher; and

C. logistics manager of operations in physical distribution, traffic agent, traffic clerk, safety terminal director, traffic manager, or traffic rate clerk.

Subp. 4. **Substitution for occupational experience.** The applicant may substitute education described in items A to D for up to 4,000 hours of the occupational experience required in subpart 3. The education must be at an accredited postsecondary institution. If the substitution is made, the applicant must still comply with the recency requirements in part 3700.0300, subpart 2.

A. A bachelor's or higher degree in business administration, office management, or marketing may be substituted for 4,000 hours.

B. An associate degree in business administration, business management, or marketing may be substituted for 2,000 hours.

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C. A diploma in traffic office and/or traffic transportation management may be substituted. A one-year program equals 1,050 hours. A two-year program equals 2,100 hours.

D. The completion of courses for credit or clock hours for credit with a traffic transportation title or prefix may be substituted. One hour of instruction equals one hour of occupational experience. One quarter credit equals 20 hours of occupational experience. One semester equals 30 hours of occupational experience.

Subp. 5. **Substitution for recent occupational experience.** An applicant may substitute teaching experience at an accredited postsecondary institution or in an industrial or military setting in traffic office or traffic transportation management for 1,500 hours of the 2,000 required under part 3700.0300, subpart 2. Two hours of teaching experience equal one hour of the occupational experience required under part 3700.0300, subpart 2.

3700.0360 COURT REPORTING LICENSE.

Subpart 1. **May teach.** A teacher who has a court reporting license may teach in the court reporting program and may also teach courses in:

A. legal terminology; and

B. machine shorthand.

Subp. 2. **Other requirements.** The applicant must meet the requirements listed in part 3700.0100 and the requirements for a teacher in the business and office area under part 3700.0300.

Subp. 3. **Occupational experience requirement.** The applicant must have 8,000 hours of occupational experience in one or more of the areas listed in items A and B. The 8,000 hours may include the 2,000 hours required under part 3700.0300, subpart 2:

A. official court reporter; and

B. freelance court reporter.

Subp. 4. **Substitution for occupational experience.** The applicant may substitute education described in items A to D for up to 4,000 hours of the occupational experience required in subpart 3. The education must be at an accredited postsecondary institution. If the substitution is made, the applicant must still comply with the recency requirements in part 3700.0300, subpart 2.

A. A bachelor's or higher degree in a court reporting program approved by the National Shorthand Reporters Association may be substituted for 4,000 hours.

B. An associate degree in a court reporting program approved by the National Shorthand Reporters Association may be substituted for 2,000 hours.

C. A diploma in court reporting approved by the National Shorthand Reporters Association may be substituted. A one-year program equals 1,050 hours. A two-year program equals 2,100 hours.

D. The completion of courses for credit or clock hours for credit with a court reporting title or prefix may be substituted. One hour of instruction equals one hour of occupational experience. One quarter credit equals 20 hours of occupational experience. One semester credit equals 30 hours of occupational experience.

Subp. 5. **Substitution for recent occupational experience.** The applicant may substitute teaching experience at an accredited postsecondary institution or in an industrial or military setting in secretarial, general office, or court reporting for 1,500 hours of the 2,000 required under part 3700.0300, subpart 2. Two hours of teaching equal one hour of the occupational experience required under part 3700.0300, subpart 2.

3700.0365 PERSONNEL ASSISTANT LICENSE.

Subpart 1. **May teach.** A teacher who has a personnel assistant license may teach in the personnel assistant program and may also teach courses in:

A. business math and machines;

B. job seeking and keeping skills;

C. office management;

D. office procedures;

E. filing; and

F. employee services and relations.

Subp. 2. **Other requirements.** The applicant must meet the requirements listed in part 3700.0100 and the requirements for a teacher in the business and office area under part 3700.0300.

Subp. 3. **Occupational experience requirement.** The applicant must have 8,000 hours of occupational experience as a manager/supervisor or assistant manager/supervisor in one or more of the areas listed in items A to F. The 8,000 hours may include the 2,000 required under part 3700.0300, subpart 2:

A. personnel;

B. human resources;

C. labor relations;

D. employee benefits;

E. employee development; and

F. employment specialist.

Subp. 4. **Substitution for occupational experience.** The applicant may substitute education described in items A to D for up to 4,000 hours of the occupational experience required in subpart 3. The education must be at an accredited postsecondary institution. If the substitution is made, the applicant must still comply with the recency requirements in part 3700.0300, subpart 2.

A. A bachelor's or higher degree in personnel, human resources, industrial relations, or business may be substituted for 4,000 hours.

B. An associate degree in a personnel assistant program may be substituted for 2,000 hours.

C. A diploma or certificate in a personnel assistant program may be substituted. A one-year program equals 1,050 hours. A two-year program equals 2,100 hours.

D. The completion of courses for credit or clock hours for credit with a personnel title or prefix, or in human relations, labor relations, wage and salary administration, interviewing techniques, and training and development of personnel may be substituted. One hour of instruction equals one hour of occupational experience. One quarter credit equals 20 hours of occupational experience. One semester credit equals 30 hours of occupational experience.

Subp. 5. **Substitution for recent occupational experience.** The applicant may substitute teaching experience at an accredited postsecondary institution or an industrial or military setting in personnel assistant for 1,500 hours of the 2,000 required under part 3700.0300, subpart 2. Two hours of teaching experience equal one hour of the occupational experience required in part 3700.0300, subpart 2.

3700.0370 COMPUTER PROGRAMMING LICENSE.

Subpart 1. **May teach.** A teacher who has a computer programming license may teach in the computer programming program and may also teach courses in:

A. introduction to data processing;

B. data processing management and supervision;

C. general microcomputer operations;

D. microcomputer keyboarding and printing;

E. management information systems;

F. operating system concepts and skills;

G. work station operations;

I. data communications; and

J. programming languages.

Subp. 2. **Other requirements.** The applicant must meet the requirements listed in part 3700.0100 and the requirements for a teacher in the business and office area under part 3700.0300.

Subp. 3. **Occupational experience requirement.** The applicant must have 8,000 hours of work experience in one or more of the areas listed in items A to F. Two thousand of the 8,000 hours must be in computer related occupations of data processing manager

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or director; director or manager of information systems; and programmer in the areas of supervisor, manager, project leader, systems analyst. The 8,000 hours may include the 2,000 hours required under part 3700.0300, subpart 2:

A. computer programming;

B. programmer, analyst, or administrator of data bases;

C. data communications programmer;

D. programmer analyst;

E. programmer operator; and

F. systems programmer.

Subp. 4. **Substitution for occupational experience.** The applicant may substitute education described in items A to D for up to 4,000 hours of the occupational experience required in subpart 3. The education must be at an accredited postsecondary institution. If the substitution is made, the applicant must still comply with the recency requirements in part 3700.0300, subpart 2.

A. A baccalaureate or higher degree in business management information systems processing, computer science, or data processing may be substituted for 4,000 hours.

B. An associate degree in business, computer science management information systems processing, or data processing may be substituted for 2,000 hours.

C. A diploma in computer programming or data processing may be substituted. A one-year program equals 1,050 hours. A two-year program equals 2,100 hours.

D. The completion of courses for credit or clock hours for credit in management information systems or business may be substituted. One hour of instruction equals one hour of occupational experience. One quarter credit equals 20 hours of occupational experience. One semester credit equals 30 hours of occupational experience.

Subp. 5. **Substitution for recent occupational experience.** The applicant may substitute teaching experience at an accredited postsecondary institution or in an industrial or military setting in subpart 1, for 1,500 hours of the 2,000 required under part 3700.0300, subpart 2. Two hours of teaching equal one hour of the occupational experience required in part 3700.0300, subpart 2.

3700.0375 COMPUTER OPERATIONS LICENSES.

Subpart 1. **May teach.** A teacher who has a computer operations license may teach in the computer operations program and may also teach courses in:

A. supervision and management in computer operations;

B. general microcomputer operations;

C. microcomputer keyboarding and printing;

D. management information systems processing management and supervision;

E. operating systems, concepts, and skills;

F. work station operations;

G. data communications; and

H. systems analysis.

Subp. 2. **Other requirements.** The applicant must meet the requirements listed in part 3700.0100 and the requirements for a teacher in the business and office area under part 3700.0300.

Subp. 3. **Occupational experience requirement.** The applicant must have 8,000 hours of occupational experience in one or more of the areas listed in items A to F. The 8,000 hours may include the 2,000 hours required under part 3700.0300, subpart 2:

A. computer operator;

B. data processing manager;

C. lead computer operator;

D. management information systems manager or operator;

E. operations analyst, consultant, or supervisor; and

F. program or systems operator.

Subp. 4. **Substitution for occupational experience.** The applicant may substitute education described in items A to D for up to

4,000 hours of the occupational experience required in subpart 3. The education must be at an accredited postsecondary institution. If the substitution is made, the applicant must still comply with the recency requirements in part 3700.0300, subpart 2.

A. A baccalaureate or higher degree in business, computer management information systems, business data processing, computer science, or systems analysis may be substituted for 4,000 hours.

B. An associate degree in business, computer management information systems, or computer science may be substituted for 2,000 hours.

C. A diploma in computer operations or data processing with computer operations may be substituted. A one-year program equals 1,050 hours. A two-year program equals 2,100 hours.

D. The completion of courses for credit or clock hours for credit in business or management information systems may be substituted. One hours of instruction equals one hour of occupational experience. One quarter credit equals 20 hours of occupational experience. One semester credit equals 30 hours of occupational experience.

Subp. 5. **Substitution for recent occupational experience.** The applicant may substitute teaching experience at an accredited postsecondary institution or in an industrial or military setting in data processsing programs for 1,500 hours of the 2,000 required under part 3700.0300, subpart 2. Two hours of teaching experience equal one hour of the occupational experience required in part 3700.0300, subpart 2.

3700.0380 EXISTING LICENSES; CONVERSION TO NEW LICENSES.

On January 1, 1988, the state board shall convert the existing license issued under part 3515.9920, listed in column A, to the license listed in column B. At the licensee's next renewal date the renewed license must show the new license category and the January 1, 1988, conversion date.

A	B
140100 Accounting	3700.0305 Accounting
140102 Bookkeeping	3700.0310 Bookkeeping
140120 Banking and Finance/General	3700.0315 Banking and Finance Operations
140122 Financial Teller Occupations	3700.0315 Banking and Finance Operations
140121 Banking and Finance/Agriculture	3700.0320 Banking and Finance Operations/Agriculture
140800 Business Management	3700.0325 Business Administrative Management
140004 Office Supervision and Management	3700.0325 Business Administrative Management
140201 Computer Operations	3700.0375 Computer Operations
140200 Data Processing	3700.0375 Computer Operations
140203 Computer Programming	3700.0370 Computer Programming
140200 Data Processing	3700.0370 Computer Programming
140704 Court Reporting	3700.0360 Court Reporting

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A	B
140292 Data Entry	3700.0330 Administrative Support
140906 Word Processing Occupations	3700.0330 Administrative Support
140730 General Secretarial with Shorthand	3700.0330 Administrative Support
140731 General Secretarial without Shorthand	3700.0330 Administrative Support
140743 Legal Secretarial with Shorthand	3700.0340 Legal Secretarial Occupations
140742 Legal Secretarial without Shorthand	3700.0340 Legal Secretarial Occupations
140752 Medical Secretarial with Shorthand	3700.0335 Medical Secretarial Occupations
140753 Medical Secretarial without Shorthand	3700.0335 Medical Secretarial Occupations
140006 Uncharted License Personnel Assistant	3700.0365 Personnel Assistant
140313 Traffic Office Clerk	3700.0355 Traffic Transportation Management
140312 Purchasing Office Clerk	3700.0350 Purchasing and Inventory Management

REPEALER. Minnesota Rules, part 3700.0380 is repealed after the board has renewed the licenses in part 3700.0380, column A, to show the conversion to the licenses listed in part 3700.0380, column B.

Adopted Rules

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 14.14-14.28 have been met and five working days after the rule is published in *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strikeouts and new language will be underlined. The rule's previous *State Register* publication will be cited.

An emergency rule becomes effective five working days after the approval of the Attorney General as specified in Minn. Stat. § 14.33 and upon the approval of the Revisor of Statutes as specified in § 14.36. Notice of approval by the Attorney General will be published as soon as practicable, and the adopted emergency rule will be published in the manner provided for adopted rules under § 14.18.

Department of Administration

Adopted Permanent Rules Relating to Certification Maintenance

The rules proposed and published at *State Register,* Volume 11, Number 43, pages 1977-1981, April 27, 1987 (11 S.R. 1977) are adopted as follows.

Rules as Adopted

1300.0940 AUTHORITY; PURPOSE.

Parts 1300.0940 to 1300.0948 are adopted by the commissioner of administration pursuant to Minnesota Statutes, section 16B.65, subdivision 7, to set continuing education standards for certified building officials.

1300.0942 DEFINITIONS.

Subpart 1. **Applicability.** When used in parts 1300.0940 to 1300.0948, the terms defined in this part have the meanings given them.

Subp. 2. **Commissioner.** "Commissioner" means the commissioner of administration.

Subp. 3. **Continuing education unit.** "Continuing education unit" means ten hours of educational instruction.

Subp. 4. **State building inspector.** "State building inspector" means the director of the Building Codes and Standards Division of the Department of Administration.

Subp. 5. **Unit of instruction.** "Unit of instruction" means three hours of structured educational participation in a program listed in part 1300.0946.

1300.0944 UNITS OF INSTRUCTION REQUIRED.

This part establishes the number of units of instruction required within a three-year period to maintain certification.

A. A Class I certified building official must receive credit for 18 units of instruction through any of the programs described in part 1300.0946, subpart 1 or 2.

B. A Class II certified building official must receive credit for 24 units of instruction through any of the programs described in part 1300.0946, subpart 1 or 2.

1300.0946 CREDIT FOR INSTRUCTION.

Subpart 1. **Approved programs.** The following programs are approved for the indicated number of units of instruction:

A. annual Building Official Institute of Minnesota, 2 units per day of attendance;

B. State Building Codes and Standards Division seminars, 2.5 units per day of attendance;

C. International Conference of Building Officials seminars, 3 units per continuing education unit earned;

D. International Conference of Building Officials Annual Education and Code Development Conference, 2 units per day;

E. State International Conference of Building Officials chapter meetings, 1 unit per meeting with a minimum three-hour educational program;

F. regional building official meetings, 1 unit per meeting with a minimum three-hour educational program;

G. area building official luncheon meetings, 0.25 unit per meeting;

H. community college building inspection technology and related courses, 3 units per credit earned;

I. area vocational technical training institute courses in construction, management, or supervision, 1 unit per three hours' instruction or related shop work;

J. certification in an International Conference of Building Officials certificate program taken after January 1, 1985, 4 units per certificate;

K. certification as a "Certified Building Official" by the Council of American Building Officials, after January 1, 1985, 6 units; and

L. teaching a course at the community college level in the building inspection technology program or a course at an area vocational technical institute, 1 unit per three hours of instruction.

Subp. 2. **Other courses.** Courses offered by other states, correspondence schools, universities, or other institutes of learning which offer building code administration and enforcement-related courses must be considered on an individual basis. Each building official must prearrange for unit approval with the state building inspector in order to receive credit. Units must be approved on the basis of comparison with the items identified in subpart 1.

Subp. 3. **Mandatory courses.** The state building inspector shall require that specific courses be taken, if necessary, to ensure continuing education in relevant code application, administration, or enforcement practices. The requirement may include training courses when new codes or legislative mandates are promulgated.

Subp. 4. **Credit for repeat courses.** Credit for an educational offering will be allowed only once during a three-year cycle.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Subp. 5. **Review of courses.** All continuing education courses are subject to periodic review and evaluation by the commissioner or the commissioner's designee.

1300.0948 REQUIREMENTS FOR RECERTIFICATION.

Subpart 1. **Submission of information.** Each certified building official must provide evidence to the state building inspector on forms approved by the state building inspector and provided by the Building Codes and Standards Division of attendance or participation in an educational offering and indicate the number of units of instruction earned. The information must be submitted to the state building inspector within 60 days of the last day of the third calendar year following the date of the last certification issued. For persons certified prior to January 1, 1985, the last day of the third calendar year is December 31, 1987.

Subp. 2. **Certificate of renewal.** The commissioner shall issue a certificate of renewal, which is valid for three years, to each applicant who has provided the evidence of units of instruction earned and has submitted the fee within the time indicated in subpart 1. The fee is $20.

Subp. 3. **Extension of time for compliance.** The state building inspector may grant an extension of time for compliance with parts 1300.0940 to 1300.0948 if the person requesting the extension of time show cause for the extension. The extension does not relieve the building official from complying with the continuing education requirements for the immediate subsequent three-year period.

Subp. 4. **Reinstatement of certificate.** A building official who has let certification lapse must be reinstated based upon proof of earning continuing educational units, as required, if no more than three years has passed since the certification has lapsed, or taking the test provided for certification as a building official. In either case the appropriate fee must be submitted with the application.

Board of Animal Health

Adopted Permanent Rules Relating to Importing Feeding Cattle

The rule proposed and published at *State Register*, Volume 11, Number 49, pages 2234-2235, June 8, 1987 (11 S.R. 2234) is adopted as proposed.

Department of Health

Adopted Permanent Rules Relating to Merit System

The rules proposed and published at *State Register*, Volume 11, Number 51, pages 2322-2325, June 22, 1987 (11 S.R. 2322) are adopted as proposed.

Department of Human Services

Adopted Permanent Rules Relating to Merit System

The rules proposed and published at *State Register*, Volume 11, Number 51, pages 2325-2337, June 22, 1987 (11 S.R. 2325) are adopted as proposed.

Public Utilities Commission

Adopted Permanent Rules Relating to Code of Conduct

The rules proposed and published at *State Register*, Volume 11, Number 50, pages 2281-2284, June 15, 1987 (11 S.R. 2281) are adopted as proposed.

Official Notices

Pursuant to the provisions of Minnesota Statutes § 14.10, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Department of Agriculture

Soil and Water Conservation Board

Notice of Cancellation and Rescheduling of Meeting

The Minnesota Soil and Water Conservation Board has cancelled their regular monthly meeting on September 16, 1987. The Board has rescheduled their regular monthly meeting date to September 23, 1987, first floor, Department of Agriculture Building, 90 W. Plato Blvd., St. Paul, Minnesota.

Department of Commerce

Change of Date and Place of Hearing in the Matter of the Workers' Compensation Assigned Risk Plan Rates for Classes 7219, 7230, 7231, 8292 and 8293

The date and location of the hearing in the above captioned matter described in the Order and Notice of Hearing which was published in the *State Register* at 12 S.R. 293 has been changed. The new date is September 25, 1987 instead of September 24, 1987 and the new location is 10 State Office Building instead of 500 Metro Square Building.

Dated: 2 September 1987

Michael A. Hatch
Commissioner of Commerce

Department of Commerce

Notice of Activation of the Minnesota Joint Underwriting Association to Insure Specified Classes of Business and Public Hearing

Notice is hereby given that, pursuant to *Minnesota Statutes*, section 62I.21, the Minnesota Joint Underwriting Association (MJUA) and the Market Assistance Plan (MAP) are activated to provide assistance to the following classes of business unable to obtain insurance from private insurers:

Collection Agency

Roofing Contractor

Petroleum Tank Installation

Laminar Flow Testing Service

Abstractor

The MJUA and MAP are activated to provide assistance to the above classes of business for a period of 180 days following publication of this notice. A public hearing will be held, for the purpose of determining whether activation should continue beyond 180 days, at the Office of Administrative Hearings, 310 4th Avenue South, 4th Floor Summit Bank Building, Minneapolis, Minnesota 55415 on November 17, 1987 at 9:00 a.m. and continuing until all interested persons and groups have had an opportunity to be heard. The hearing shall be governed by *Minnesota Statutes*, Sections 14.57-14.69 and by *Minnesota Rules*, Parts 1400.5100-1400.8400, (1985). Questions regarding procedure may be directed to Administrative Law Judge, Peter Erickson, 310 4th Avenue South, 4th Floor Summit Bank Building, Minneapolis, Minnesota 55415, telephone (612) 341-7606. The authority for this proceeding is found in Chapter 62I of *Minnesota Statutes*, specifically sections 62I.21 and 62I.22. (A copy of those sections follows this notice.)

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike~~ ~~outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike~~ ~~outs~~ indicate deletions from proposed rule language.

Prior to the hearing a pre-hearing conference will be held at 1:30 p.m. on October 29, 1987, at the Office of Administrative Hearings, 310 4th Avenue South, 4th Floor Summit Bank Building, Minneapolis, Minnesota 55415.

Minnesota Statutes, Chapter 62I, which governs the Minnesota Joint Underwriting Association provides for temporary activation for 180 days by the Commissioner of Commerce. To extend the Minnesota Joint Underwriting Association's authority beyond the 180 day period a hearing must be held. Those classes of business for which the Minnesota Joint Underwriting Association was temporarily activated, by this notice and by previously published notices, must prove, at that hearing, that they meet the statutory requirements for coverage by the Minnesota Joint Underwriting Association.

Among those requirements are:

(1) That members of those classes are unable to obtain insurance through ordinary means;

(2) That the insurance being sought is required by statute ordinance, or otherwise required by law, and is necessary to earn a livelihood or conduct a business; and

(3) That the classes of business serve a public purpose.

The classes of business specified in this notice and previously published notices must be shown to meet the statutory requirements or the Minnesota Joint Underwriting Association's authority to provide coverage to them will end after 180 days from the date the notice of activation was published in the *State Register.*

The Department strongly suggests that any persons affected by this hearing or otherwise interested in the proceedings familiarize themselves with the requirements of Chapter 62I and the contested case procedures prior to the hearing, that they take such other steps as are appropriate to protect their interests and that any questions they may have as to how to proceed or how to participate at the hearing be directed to the Administrative Law Judge prior to the hearing.

All interested or affected persons will have an opportunity to participate at the hearing. Questioning of agency representatives or witnesses, and of interested persons making oral statements will be allowed in the manner set forth in the Rules pertaining to contested cases (*Minnesota Rules,* Parts 1400.5100-1400.8400).

Anyone wishing to oppose activation beyond 180-days for any particular class, must file a petition to intervene with the administrative law judge at least 10 days before the hearing date. If no notice to intervene is filed for a class then the class is activated beyond the 180-day period without further action.

Minnesota Statutes, chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in *Minnesota Statutes*, Section 10A.01, subdivision 11 as an individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than $250, not including traveling expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert St., St. Paul, Minnesota, 55101-2520, telephone (612) 296-5148.

Dated: 21 September 1987

Michael A. Hatch
Commissioner of Commerce

62I.21 ACTIVATION OF MARKET ASSISTANCE PLAN AND JOINT UNDERWRITING ASSOCIATION.

At any time the commissioner of commerce deems it necessary to provide assistance with respect to the placement of general liability insurance coverage on Minnesota risks for a class of business, the commissioner shall by notice in the state register activate the market assistance plan and the joint underwriting association. The plan and association are activated for a period of 180 days from publication of the notice. At the same time the notice is published, the commissioner shall prepare a written petition requesting that a hearing be held to determine whether activation of the market assistance plan and the joint underwriting association is necessary beyond the 180-day period. The hearing must be held in accordance with section 62I.22. The commissioner by order shall deactivate a market assistance program and the joint underwriting association at any time the commissioner finds that the market assistance program and the joint underwriting association are not necessary.

62I.22 HEARING

Subdivision 1. ADMINISTRATIVE LAW JUDGE. The commissioner shall forward a copy of the petition to activate the market assistance plan and the joint underwriting association with respect to a class of business to the chief administrative law judge. The

chief administrative law judge shall, within three business days of receipt of the copy of the petition, set a hearing date, assign an administrative law judge to hear the matter, and notify the commissioner of the hearing date and administrative law judge assigned to the matter. The hearing date must be no less than 60 days nor more than 90 days from the date of receipt of the petition by the chief administrative law judge.

Subd. 2. NOTICE. The commissioner of commerce shall publish notice of the hearing in the *State Register* at least 30 days before the hearing date. The notice should be that used for rulemaking under chapter 14. Approval by the administrative law judge of the notice prior to publication is not required. The notice must contain a statement that anyone wishing to oppose activation beyond 180 days for any particular class, must file a petition to intervene with the administrative law judge at least ten days before the hearing date. If no notice to intervene is filed for a class then the class is activated beyond the 180-day period without further action.

Subd. 3. CONTESTED CASE; REPORT. The hearing and all matters after the hearing are a contested case under chapter 14. Within 45 days from the commencement of the hearing and within 15 days of the completion of the hearing the administrative law judge shall submit a report to the commissioner of commerce. The parties, or the administrative law judge, if the parties cannot agree, shall adjust all time requirements under the contested case procedure to conform with the 45-day requirement.

Subd. 4. DECISION. The commissioner shall make a decision within ten days of the receipt of the administrative law judge's report.

Subd. 5. WAIVER OR MODIFICATION. If all parties to the proceeding agree, any of the requirements of this section may be waived or modified.

Subd. 6. CASE PRESENTATION. The department of commerce, upon request by small businesses as defined by section 14.115, subdivision 1, shall assist small businesses in any specific class requesting continuation of coverage beyond the 180-day period, in coordinating the class and presenting the case in the contested hearing.

Department of Jobs and Training

Office of Services For the Blind

Notice of Extension for Submitting Proposals

The Department of Jobs and Training, Office of Services for the Blind announce it has extended the deadline for submitting contract proposals for: Medical Services; Low Vision Services; Ophthalmological Services; and Psychological Services as published in the August 24, 1987 *State Register* (12 S.R. 347-349) has been extended until September 30, 1987.

Department of Labor and Industry

Division of Labor Standards

Notice of Revision to Prevailing Wages—Commercial Projects

The prevailing wage rate certified for Electricians in Chippewa and Kandiyohi counties June 1, 1987 have been revised effective August 24, 1987.

The prevailing wage rate certified for Electricians in Beltrami County August 1, 1987 have been revised effective August 24, 1987.

Copies of the revised counties may be obtained by contacting the State Register and Minnesota Documents Division, 117 University Avenue, St. Paul, Minnesota 55155.

Ray Bohn, Commissioner
Department of Labor & Industry

Minnesota Pollution Control Agency

Notice of Permanent List of Priorities Among Releases or Threatened Releases of Hazardous Substances, Pollutants or Contaminants

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (MPCA) is publishing for public comment a proposed update of the Permanent List of Priorities (PLP) among releases or threatened releases of hazardous substances, pollutants or contam-

inants for which the MPCA may take removal or remedial actions. The statutory basis for and an explanation of the MPCA's PLP is discussed below.

Pursuant to the Environmental Response and Liability Act (ERLA), *Minnesota Statutes* § 115B.17 (1986), the MPCA is authorized to take any removal or remedial action which the MPCA deems necessary to protect the public health or welfare or environment whenever there is a release, or substantial threat of release, from a facility of any pollutant or contaminant which presents an imminent and substantial danger to the public health, welfare or environment, or whenever a hazardous substance is released or there is a threatened release of a hazardous substance from a facility.

Minnesota Statutes § 115B.17, Subd. 13 (1986) requires the MPCA to establish priority rules among releases or threatened releases of hazardous substances, pollutants or contaminants. The priority rules, *Minnesota Rules* Ch. 7044, became effective on July 10, 1984.

Minnesota Statutes § 115B.17, Subd. 13 (1986) also requires the MPCA to adopt a permanent priority list and to modify the list from time to time according to the criteria set forth in the priority rules. Before any list is established, it must be published in the *State Register* to allow for a 30-day public comment period. This notice is therefore published to inform the public that the MPCA is proposing to amend its November 1986 PLP and to solicit public comments ***only*** on the proposed modifications.

The proposed modifications to the November 1986 PLP are hereinafter referred to as the "proposed December 1987 Update of the PLP." The proposed December 1987 Update of the PLP was developed according to the process set forth in *Minnesota Rules* pt. 7044.0400 (1987). Each site listed has been ranked using the modified Hazard Ranking System (HRS) method as required by *Minnesota Rules* pt. 7044.1000. Each site has also passed the prescreening test of *Minnesota Rules* pt. 7044.1200 (1987) for eligibility.

The numerical scores generated by the HRS scoring process should not be interpreted as exact number priorities. The scores shown indicate the relative ranking and general classification of sites, but sites with scores within approximately ten points of each other may be considered roughly equivalent in terms of a known or possible public health or environmental threat. Generally, the cleanup of a hazardous waste site involves a three-phase program:

1) Remedial Investigation/Feasibility Study—investigation of the extent, magnitude and nature of the release or threatened release, and identification and selection of the most cost effective removal or remedial action(s), and

2) Remedial Design—detailed design of the selected cost-effective removal or remedial action(s), and

3) Response Action—implementation of the selected cost-effective removal or remedial action(s).

All sites listed on the proposed December 1987 Update of the PLP have been assigned to one or more response action classes as required by *Minnesota Rules* pt. 7044.0300. (The terms response action, removal action, and remedial action are defined in *Minnesota Statutes* § 115B.02.) The proposed December 1987 Update of the PLP is presented by response action class. Each of the four response action classes is defined as follows:

CLASS A—**Declared emergencies.** This class includes those sites at which an emergency has been declared by the MPCA Commissioner pursuant to ERLA. According to *Minnesota Rules* pt. 7044.0200, an "emergency" means that there is an imminent risk of fire or explosion, that a temporary water supply is needed where an advisory has been issued, or that immediate adverse human health effects may be anticipated due to direct contact or inhalation, and an advisory has been issued. An "advisory" means a warning by the MPCA Commissioner, Minnesota Department of Health, Minnesota Department of Natural Resources, or the Minnesota Department of Agriculture issued to the public concerning a hazardous substance, pollutant or contaminant at or near a site.

CLASS B—**Response Actions completed and operation and maintenance/long-term monitoring ongoing.** This class includes those sites where response actions have been completed and long-term monitoring of these completed response actions is in progress. This class also includes those sites where activities are necessary to operate and maintain response action(s) that have previously been completed. Examples include continued operation of a ground water pump out system at a site, long-term monitoring, and work necessary to maintain the integrity of the site such as maintaining cover or closure at a site.

There are seventeen (17) sites on the proposed December 1987 Update of the PLP where response actions have been completed (e.g., source removal or treatment, soils excavation, or installation of a ground water pump out system). All that remains at these sites is long-term operation and maintenance or long-term monitoring to ensure the effectiveness of the completed response actions. Sites with this status include: Boise Cascade/Medtronic; Boise Cascade/Onan; Boise Cascade Paint Waste Dump; DNR-Duxbury Pesticide Site; General Mills; Hastings Former City Dump; Hutchinson Technology, Inc.; Kurt Manufacturing; Minneapolis Community Development Agency/FMC; Oakdale Dump; PCI, Inc.; Perham Arsenic Site; 3M Kerrick Disposal Site; Wadena Arsenic Site; Washington County Landfill; Whittaker Corporation; and Winona County Sanitary Landfill.

CLASS C—**Response Actions necessary or in progress or first year operation and maintenance at a site.** This class includes all sites where remedial design and implementation of response actions (other than Class A or B) such as barrel removal, soil decontamination, first year ground water pump out or monitoring are necessary to effect a permanent remedy or cleanup of the sites.

CLASS D—**Remedial Investigations and Feasibility Studies (RI/FS) necessary or in progress.** This class includes all sites which require remedial investigation (RI) of the extent, magnitude and nature of the release or threatened release and analysis of alternatives and selection of the most cost-effective response action(s) feasibility studies (FS).

Funding sources for removal or remedial actions at the sites listed include federal Superfund (CERCLA), state Superfund (ERLA), a combination of both federal and state monies, and funding by responsible parties.

All sites in the four classes are presented in order of their HRS score. Request for Response Actions issued by the MPCA are noted in the class listings. In addition, Consent Orders and Stipulation Agreements are also noted in the class listings if such agreements have been executed between the MPCA and responsible parties. ERLA funding and CERCLA funding is also noted for those sites in which activities are funded by state Superfund or federal Superfund monies, respectively.

Major changes to the November 1986 PLP which are reflected in the proposed December 1987 update of the PLP include the following: site additions and deletion; change in HRS score, and changes in response action classes.

The proposed site additions to the November 1987 PLP include the following ten (10) sites: Andersen Corporation, Bayport; Becker County Sanitary Landfill; Control Data Corporation—Printed Circuits Operation, St. Louis Park; Duluth Former City Dump; Faribault Municipal Well Field; Lakeland Ground Water Contamination; Lansing Ground Water Contamination; Redwood County Sanitary Landfill; St. Paul Park Ground Water Contamination; Tellijohn Sanitary Landfill, LeSueur County.

The proposed site deletion from the November 1986 PLP includes the following site: 43 East Water Street. The MPCA staff approved the Remedial Action Plan and authorized cleanup activities at the 43 East Water Street site to begin in February 1985. The work was completed to the satisfaction of the MPCA staff in August 1985, and all wastes were shipped off-site for disposal in January 1987.

The HRS Score for one (1) site is proposed for change. The proposed HRS score change is as follows: St. Augusta Sanitary Landfill/Engen Dump (45 to 34). The HRS score for the St. Augusta/Engen Dump site has undergone a change due to the U.S. Environmental Protection Agency's (EPA) quality assurance review.

The proposed December 1987 Update of the PLP proposes changes in response action classes to eighteen (18) sites on the November 1986 PLP. Changes in response action class come as a result of completion of certain tasks required for a site, or reassessment of the cleanup tasks required at a site following acquisition of additional site information. The proposed changes in response action classes are as follows: Atwater Municipal Well Field (A, C, D to A, B, C); Burlington Northern (C, D to C); FMC Corp.—Fridley Plant (C to B, C); Hopkins Agricultural Chemical/Allied Chemical (C, D to C); Hopkins Sanitary Landfill (C, D to C); Kurt Manufacturing (C to B); McLaughlin Gormley King Co. (C, D to C); Minneapolis Community Development Agency/FMC (C, D to B); Nutting Truck and Caster Co. (C, D to C); St. Regis Paper (C, D to C); Spring Grove Municipal Well Field (A, C, D to C, D); 3M Chemolite Disposal Site (C, D to C); Tonka/Woyke Site (C, D to C); Wadena Arsenic Site (C to B); Washington County Landfill (C to B); Weisman Scrap (C, D to C); West Duluth Industrial Site (C to B, C); and Winona County Sanitary Landfill (C, D to B).

The November 1986 PLP listed 130 sites. As a result of the ten (10) proposed site additions and the one (1) proposed site deletion, the proposed December 1987 update of the PLP lists a total of 139 sites.

The PLP will be updated annually as required by *Minnesota Rules* pt. 7044.0600 according to the criteria set forth in *Minnesota Rules* Ch. 7044. Notice of any future updates of the PLP will be published in the *State Register* for the purpose of soliciting public comments.

Based upon the above considerations, the proposed December 1987 Update of the PLP is offered for public comment. Additional information regarding specific sites on the proposed December 1987 Update of the PLP may be obtained by writing the Public Information Office, Minnesota Pollution Control Agency, 520 Lafayette Road North, St. Paul, Minnesota, 55155, or phoning (612) 296-6300.

The MPCA invites members of the public to submit written comments on the proposed December 1987 Update of the PLP. To be considered, all comments must be received no later than 4:30 p.m., October 13, 1987. Written comments should be submitted to: Shawn Ruotsinoja, Site Response Section, Solid and Hazardous Waste Division, Minnesota Pollution Control Agency, 520 Lafayette Road North, St. Paul, Minnesota, 55155.

All written comments received by the above deadline will be considered by the MPCA in establishing the December 1987 Update of the PLP.

Thomas J. Kalitowski, Commissioner
Minnesota Pollution Control Agency

STATE OF MINNESOTA

Environmental Response and Liability Act

Permanent List of Priorities

December 1987

CLASS A SITES

Declared Emergencies

Site	Score	Comments
Electric Machinery, St. Cloud	38	ERLA funded
Lakeland Ground Water Contamination	38	ERLA funded
St. Paul Park Ground Water Contamination	36	ERLA funded
Waite Park Ground Water Contamination Site	32	ERLA funded
Atwater Municipal Well Field	31	ERLA funded
Askov Ground Water Contamination	18	ERLA funded
Lansing Ground Water Contamination	17	ERLA funded

CLASS B SITES

Response Actions Completed and

Operation and Maintenance/Long-Term Monitoring Ongoing

Site	Score	Comments
FMC Corp.—Fridley Plant (vault)	66	Consent Order 10/28/86
Boise Cascade/Medtronic, Fridley	59	Consent Decree 1/25/84
Boise Cascade/Onan, Fridley	59	Consent Decree 12/28/84
Oakdale Dump	59	Consent Order 7/26/83
PCI, Inc., Shakopee	52	Consent Order 6/25/85
Washington County Landfill, Lake Elmo	42	Consent Order 10/24/84
Whittaker Corporation, Minneapolis	40	Request for Response Action 4/23/85
General Mills, Minneapolis	39	Consent Order 10/23/84
Perham Arsenic Site, Otter Tail County	38	ERLA funded
Winona County Sanitary Landfill	34	Request for Response Action 3/26/85
Kurt Manufacturing, Fridley	31	Consent Order 8/24/84
Atwater Municipal Well Field	31	ERLA funded
Hastings Former City Dump	31	
Wadena Arsenic Site	25	ERLA funded
Boise Cascade Paint Waste Dump, Ranier	17	Consent Order 6/25/85
West Duluth Industrial Site	11	
DNR—Duxbury Pesticide Site	11	Request for Response Action 12/18/84
3M Kerrick Disposal Site, Kerrick	9	Consent Order 1/25/84
Hutchinson Technology, Inc.	9	
Minneapolis Community Development Agency/FMC	1	Consent Order 11/26/85

CLASS C SITES

Response Actions Necessary or in Progress

First Year Operation and Maintenance

Site	Score	Comments
FMC Corp.—Fridley Plant	66	Consent Order 10/28/86
U.S. Naval Industrial Reserve Ordnance Plant (NIROP), Fridley	63	Request for Response Action 5/22/84
Twin Cities Army Ammunition Plant/New Brighton/Arden Hills/St. Anthony	59	Federal Facility Agreement 7/28/87
Reilly Tar, St. Louis Park	59	Consent Decree 4/22/86
Koppers Coke, St. Paul	55	Request for Response Action 3/25/86
St. Regis Paper, Cass Lake	53	Consent Order 2/26/85
Pine Bend Sanitary Landfill/Crosby American Demolition Landfill, Inver Grove Heights	52	Consent Order 4/23/85

Site	Score	Comments
Anoka Municipal Sanitary Landfill, Ramsey	51	Consent Order 5/30/85
Waste Disposal Engineering, Andover	51	Consent Order 3/21/84
MacGillis & Gibbs, Co., New Brighton	48	ERLA funded
Bell Lumber & Pole, Co., New Brighton	48	Consent Order 5/30/85
Burlington Northern, Brainerd	47	Consent Order 4/4/85
Faribault Coal Gasification Plant Site, Faribault	46	Request for Response Action 10/26/86
Freeway Sanitary Landfill, Burnsville	46	Request for Response Action 2/25/86
University of Minnesota—Rosemount Research Center	46	Consent Order 5/30/85
Ashland Oil/Park Penta/Sonford Products Site	45	
Joslyn Mfg. & Supply Co., Brooklyn Center	44	Consent Order 5/30/85
Burnsville Sanitary Landfill	43	Request for Response Action 4/28/87
Oak Grove Sanitary Landfill, Anoka County	43	CERCLA funded
Union Scrap Iron and Metal Co., Minneapolis	43	
Kummer Sanitary Landfill, Beltrami County	42	CERCLA funded
LeHillier/Mankato	42	CERCLA funded
Minnegasco, Minneapolis	42	Request for Response Action 6/24/86
Conoco, Inc.—Wrenshall Refinery	41	Request for Response Action 6/23/87
Kandiyohi County Sanitary Landfill	41	
Shafer Metal Recycling, Minneapolis	41	
Arrowhead Refinery Co., Hermantown	40	CERCLA funded
Dakhue Sanitary Landfill, Dakota County	40	Consent Order 6/23/87
Flying Cloud Sanitary Landfill, Eden Prairie	40	Consent Order 9/25/85
NL Industries/Taracorp/Golden Auto, St. Louis Park	40	Consent Order 2/26/85
Kluver Sanitary Landfill, Douglas County	39	
Electric Machinery, St. Cloud	38	Request for Response Action 9/23/86
Lakeland Ground Water Contamination	38	ERLA funded
Nutting Truck & Caster Co., Faribault	38	Consent Order 4/26/84
Sauk Centre Sanitary Landfill	38	
Sibley County Sanitary Landfill	38	
Windom Dump	38	Request for Response Action 6/24/86
Faribault Municipal Well Field	36	ERLA funded
St. Paul Park Ground Water Contamination	36	ERLA funded
South Andover, Andover	35	
Adrian Municipal Well Field	34	
Ironwood Sanitary Landfill (Advance Transformer), Spring Valley	34	Consent Order 8/26/86
Ashland Oil—Cottage Grove	34	Request for Response Action 3/26/85
Battle Lake Area Sanitary Landfill, Otter Tail	34	
Chisago-Isanti County Sanitary Landfill	34	
La Grande Sanitary Landfill, Douglas County	34	Request for Response Action 7/28/87
Olmsted County Sanitary Landfill	34	
Pickett Sanitary Landfill, Hubbard County	34	
Twin Cities Air Force Reserve Base	34	
St. Augusta Sanitary Landfill/Engen Dump, Stearns County	34	
3M Chemolite Disposal Site, Cottage Grove	33	Consent Order 5/30/85
Long Prairie Ground Water Contamination	32	ERLA funded
St. Louis River/Interlake/Duluth Tar, Duluth	32	
St. Louis River/U.S. Steel, Duluth	32	Consent Order 3/26/85
Waite Park Ground Water Contamination Site	32	Request for Response Action 10/22/85
Atwater Municipal Well Field	31	ERLA funded
East Bethel Demolition Landfill	31	Consent Order 4/28/87
Honeywell, Inc.—Golden Valley Plant	31	Consent Order 11/19/85
Koch Refining/N-ReN Corp., Rosemount	31	Consent Order 10/22/85
Tonka Main Plant, Mound	31	Request for Response Action 7/22/86
White Bear Lake Township Dump	31	Request for Response Action 7/22/86
Agate Lake Scrap Yard, Brainerd	30	Request for Response Action 1/28/86

Site	Score	Comments
Isanti Solvent Site, Isanti County	30	
Ritari Post and Pole, Wadena County	30	
Louisville Sanitary Landfill, Jordan	29	
Western Lake Superior Sanitary District Landfill/Duluth Dump, St. Louis County	29	
Becker County Sanitary Landfill	28	
Duluth Former City Dump	28	
Spring Grove Municipal Well Field	28	
Yonak Sanitary Landfill, Wright County	28	
Koochiching County Sanitary Landfill	27	
Pipestone County Sanitary Landfill	27	
Electronic Industries, Inc., New Hope	26	Stipulation Agreement 1/24/84
Gofer Sanitary Landfill, Martin County	26	
Jackson Municipal Well Field	26	ERLA funded
Buekers Sanitary Landfill, Stearns County	25	
Dodge County Sanitary Landfill	25	
Elk River Sanitary Landfill	25	
Houston County Sanitary Landfill	25	
Pine Lane Sanitary Landfill, Chisago County	25	
Ponderosa Sanitary Landfill, Blue Earth County	25	
Wadena Sanitary Landfill	25	
Weisman Scrap, Winona	25	Request for Response Action 3/25/86
Andersen Corporation, Bayport	25	Consent Order 1/27/87
HWK Enterprises/Meeker Mfg./Design Classics/Litchfield Municipal Well Site, Litchfield	24	
Owatonna City Dump	23	
Ashland Oil Co.—Pine County	22	Request for Response Action 12/18/84
Wabasha County Sanitary Landfill	22	
Duluth Air Force Base	21	
Trio Solvent Site, New Brighton	21	Request for Response Action 8/26/86
McGuire Wire Salvage Site, Mora	20	
Askov Ground Water Contamination	18	
Northwoods Sanitary Landfill, St. Louis County	18	
Clay County Sanitary Landfill	17	
Lansing Ground Water Contamination	17	ERLA funded
Tellijohn Sanitary Landfill, LeSueur County	17	
Woodlake Sanitary Landfill, Hennepin County	16	
Hopkins Sanitary Landfill	15	
Meeker County Sanitary Landfill	15	
Redwood County Sanitary Landfill	15	
Crow Wing County Sanitary Landfill	14	
East Mesaba Sanitary Landfill, St. Louis County	14	
Isanti Rumpel, Isanti County	13	
Waseca County Sanitary Landfill	13	
DM&IR Car and Locomotive Shops, Duluth	11	
West Duluth Industrial Site	11	ERLA funded
Bassett Creek/Irving Avenue Dump, Minneapolis	10	
Greater Morrison Sanitary Landfill, Morrison County	10	
Karlstad Sanitary Landfill, Kittson County	10	
Schnitzer Iron and Metal Co., St. Paul	10	Consent Order 7/28/87
Northwest Refinery Former, New Brighton	9	Request for Response Action 4/22/86
Tonka/Woyke Site, Annandale	9	Consent Order 11/25/86
Ford Twin Cities Assembly Plant, St. Paul	8	
Fritz Craig Salvage Operation, Park Rapids	8	
Superior Plating Inc., Minneapolis	6	
Control Data Corporation—Printed Circuits Operation, St. Louis Park	6	

Site	Score	Comments
McLaughlin Gormley King Co., Minneapolis	4	ERLA funded; Consent Order 11/19/85
Ecolotech, Inc.—St. Paul	3	
Hopkins Ag. Chem./Allied Chem., Minneapolis	3	Request for Response Action 6/25/85
Isanti Martin, Isanti County	3	
Metals Reduction, St. Paul	2	
Polymetal Products, Inc., St. Paul	2	

CLASS D SITES

Remedial Investigations/Feasibility Studies Necessary or in Progress

Site	Score	Comments
U.S. Naval Industrial Reserve Ordnance Plant (NIROP), Fridley	63	Request for Response Action 5/22/84
Twin Cities Army Ammunition Plant/New Brighton/Arden Hills/St. Anthony Site	59	Federal Facility Agreement 7/28/87
Reilly Tar, St. Louis Park	59	Consent Decree 4/22/86
Koppers Coke, St. Paul	55	Request for Response Action 3/25/86
Pine Bend Sanitary Landfill/Crosby American Demolition Landfill, Inver Grove Heights	52	Consent Order 4/23/85
Anoka Municipal Sanitary Landfill, Ramsey	51	Consent Order 5/30/85
Waste Disposal Engineering, Andover	51	Consent Order 3/21/84
MacGillis & Gibbs Co., New Brighton	48	ERLA funded
Bell Lumber & Pole Co., New Brighton	48	Consent Order 5/30/85
Faribault Coal Gasification Plant Site, Faribault	46	Request for Response Action 10/26/86
Freeway Sanitary Landfill, Burnsville	46	Request for Response Action 2/25/86
University of Minnesota—Rosemount Research Center	46	Consent Order 5/30/85
Ashland Oil/Park Penta/Sonford Products Site	45	
Joslyn Mfg. & Supply Company, Brooklyn Center	44	Consent Order 5/30/85
Burnsville Sanitary Landfill	43	Request for Response Action 4/28/87
Oak Grove Sanitary Landfill, Anoka County	43	CERCLA funded
Union Scrap Iron and Metal Co., Minneapolis	43	CERCLA funded
Kummer Sanitary Landfill, Beltrami County	42	CERCLA funded
Minnegasco, Minneapolis	42	Request for Response Action 6/24/86
Conoco, Inc.—Wrenshall Refinery	41	Request for Response Action 6/23/87
Kandiyohi County Sanitary Landfill	41	
Shafer Metal Recycling, Minneapolis	41	
Arrowhead Refinery Co., Hermantown	40	CERCLA funded
Dakhue Sanitary Landfill, Dakota County	40	Consent Order 6/23/87
Flying Cloud Sanitary Landfill, Eden Prairie	40	Consent Order 9/25/85
NL Industries/Taracorp/Golden Auto, St. Louis Park	40	Consent Order 2/26/85
Kluver Sanitary Landfill, Douglas County	39	
Electric Machinery, St. Cloud	38	Request for Response Action 9/23/86
Lakeland Ground Water Contamination	38	ERLA funded
Sauk Centre Sanitary Landfill	38	
Sibley County Sanitary Landfill	38	
Windom Dump	38	Request for Response Action 6/24/86
Faribault Municipal Well Field	36	
St. Paul Park Ground Water Contamination	36	ERLA funded
South Andover, Andover	35	CERCLA funded
Adrian Municipal Well Field	34	CERCLA funded
Ironwood Sanitary Landfill (Advance Transformer), Spring Valley	34	Consent Order 8/26/86
Ashland Oil—Cottage Grove	34	Request for Response Action 3/26/85
Battle Lake Area Sanitary Landfill, Otter Tail County	34	
Chisago-Isanti County Sanitary Landfill	34	
La Grande Sanitary Landfill, Douglas County	34	Request for Response Action 7/28/87
Olmsted County Sanitary Landfill	34	
Pickett Sanitary Landfill, Hubbard County	34	

Site	Score	Comments
St. Augusta Sanitary Landfill/Engen Dump, Stearns County	34	
Twin Cities Air Force Reserve Base	34	
Long Prairie Ground Water Contamination	32	CERCLA funded
St. Louis River/Interlake/Duluth Tar, Duluth	32	CERCLA funded
St. Louis River/U.S. Steel, Duluth	32	Consent Order 3/26/85
Waite Park Ground Water Contamination Site	32	Request for Response Action 10/22/85
East Bethel Demolition Landfill	31	Consent Order 4/28/87
Koch Refining/N-ReN Corp., Rosemount	31	Consent Order 10/22/85
Tonka Main Plant, Mound	31	Request for Response Action 7/22/86
White Bear Lake Township Dump	31	Request for Response Action 7/22/86
Agate Lake Scrap Yard, Brainerd	30	Request for Response Action 1/28/86
Isanti Solvent Site	30	
Ritari Post and Pole, Wadena	30	CERCLA funded
Louisville Sanitary Landfill, Jordan	29	Request for Response Action 9/23/86
Western Lake Superior Sanitary District Landfill/Duluth Dump, St. Louis County	29	
Becker County Sanitary Landfill	28	
Duluth Former City Dump	28	
Spring Grove Municipal Well Field	28	
Yonak Sanitary Landfill, Wright County	28	
Koochiching County Sanitary Landfill	27	
Pipestone County Sanitary Landfill	27	
Electronic Industries, Inc., New Hope	26	Stipulation Agreement 1/24/84
Gofer Sanitary Landfill, Martin County	26	
Jackson Municipal Well Field	26	ERLA funded
Buekers Sanitary Landfill, Stearns County	25	
Dodge County Sanitary Landfill	25	
Elk River Sanitary Landfill	25	
Houston County Sanitary Landfill	25	
Pine Lane Sanitary Landfill, Chisago County	25	
Ponderosa Sanitary Landfill, Blue Earth County	25	
Wadena Sanitary Landfill	25	
Andersen Corporation, Bayport	24	Consent Order 1/27/87
HWK Enterprises/Meeker Mfg./Design Classics/Litchfield Municipal Well Site, Litchfield	24	
Owatonna City Dump	23	
Ashland Oil Co.—Pine County	22	Request for Response Action 12/18/84
Wabasha County Sanitary Landfill	22	
Duluth Air Force Base	21	
Trio Solvent Site, New Brighton	21	Request for Response Action 8/26/86
McGuire Wire Salvage Site, Mora	20	
Askov Ground Water Contamination	18	Request for Response Action 10/28/86, 12/16/86
Northwoods Sanitary Landfill, St. Louis County	18	
Clay County Sanitary Landfill	17	
Lansing Ground Water Contamination	17	ERLA funded
Tellijohn Sanitary Landfill, LeSueur County	17	
Woodlake Sanitary Landfill, Hennepin County	16	
Meeker County Sanitary Landfill	15	
Redwood County Sanitary Landfill	15	
Crow Wing County Sanitary Landfill	14	
East Mesaba Sanitary Landfill, St. Louis County	14	
Isanti Rumpel, Isanti County	13	
Waseca County Sanitary Landfill	13	
DM&IR Car and Locomotive Shops, Duluth	11	
Bassett Creek/Irving Avenue Dump, Minneapolis	10	

Site	Score	Comments
Greater Morrison Sanitary Landfill, Morrison County	10	
Karlstad Sanitary Landfill, Kittson County	10	
Schnitzer Iron and Metal Co., St. Paul	10	Consent Order 7/28/87
Northwest Refinery Former, New Brighton	9	Request for Response Action 4/22/86
Ford Twin Cities Assembly Plant, St. Paul	8	
Fritz Craig Salvage Operation, Park Rapids	8	
Superior Plating Inc., Minneapolis	6	
Control Data Corporation—Printed Circuits Operation, St. Louis Park	6	
Isanti Martin, Isanti County	3	
Metals Reduction, St. Paul	2	

Notes:

Score—Hazard Ranking System score.

Comments:

If a Consent Order, Request for Response Action or Stipulation Agreement is indicated, a Responsible Party is undertaking the necessary response actions pursuant to an enforceable document.

If CERCLA or ERLA funding is indicated, the MPCA is using federal or state Superfund monies, respectively, to finance the necessary response actions being conducted by an MPCA contractor.

Minnesota Pollution Control Agency

Division of Water Quality

Notice of Intent to Solicit Outside Information Regarding Proposed Rule Governing Clean Water Partnership Program

Notice is hereby given that the Minnesota Pollution Control Agency (Agency) is seeking information or opinions from outside sources in preparing to propose the adoption of rules governing Clean Water Partnership Program. The adoption of the rule is authorized by *Laws of Minnesota 1987*, Chapter 392, Section 10, which requires the Agency to adopt permanent rules necessary to implement the Clean Water Partnership Program, to provide financial and technical assistance to local units of government for control of water pollution associated with land use and land management activities.

The Agency is seeking opinions on all aspects of administration of this new program, and is particularly interested in comments relating to ranking projects in order of priority for assistance, conditions for administration of assistance and requirements for diagnostic studies and implementation plans.

The Agency requests information and opinions concerning the subject matter of the rule. Interested persons or groups may submit data or views in writing or orally. Written or oral statements or comments should be directed to:

Mr. Gaylen Reetz
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, MN 55155
Telephone: (612) 296-8834

Oral statements will be received during regular business hours, 8:00 a.m. to 4:30 p.m., Monday through Friday.

All statements of information and opinion will be accepted until October 30, 1987. Any written materials received by the Agency shall become part of the rulemaking record in the event that the rule is adopted.

Thomas J. Kalitowski, Commissioner
Minnesota Pollution Control Agency

Office of the Secretary of State

Notice of Vacancies in Multi-Member State Agencies

Notice is hereby given to the public that vacancies have occurred in multi-member state agencies, pursuant to *Minnesota Statutes* § 15.0597, subd. 4. Application forms may be obtained at the Office of the Secretary of State, 180 State Office Building, St. Paul 55155-1299; (612) 296-2805. Application deadline is October 6, 1987.

MINNESOTA ZOOLOGICAL BOARD has 3 vacancies open for public members having a background or interest in zoological societies or zoo management or an ability to generate community interest in the Minnesota zoological garden. To the extent possible members will be appointed who are residents of the various geographic regions of the state. Members should have ability to raise significant funds from the private sector. The board operates and maintains the Minnesota Zoological Garden. Members are appointed by the Governor. Members receive $35 per diem. Monthly meetings at the Minnesota Zoological Garden. For specific information contact the Minnesota Zoological Board, 12101 Johnny Cake Ridge Rd., Apple Valley 55124; (612) 432-9010.

METROPOLITAN COUNCIL has 1 vacancy open for a public member. The council coordinates planning and development of the 7-county Twin Cities metropolitan area, establish policies for regional transportation, sewage, airports, parks, health and housing systems, and receive and disburse grant monies. Members are appointed by the Governor and confirmed by the Senate. Members cannot hold elected public office and must reside in the council district he or she represents. Members must file with the Ethical Practices Board. Members receive $50 per diem plus expenses. Meetings twice a month in St. Paul. For specific information contact the Metropolitan Council, 300 Metro Square Bldg., St. Paul 55101; (612) 291-6359.

MINNESOTA-WISCONSIN BOUNDARY AREA COMMISSION has 1 vacancy open for a Minnesota resident. The commission makes recommendations on the use, development, and protection of the corridor of the St. Croix and Mississippi rivers that forms the interstate border of Minnesota and Wisconsin. It also assists the two states in their participation in federal programs affecting the rivers; coordinates St. Croix National Scenic Riverways Program. Members are appointed by the Governor. Bi-monthly meetings; members are reimbursed for expenses. For specific information contact the Minnesota-Wisconsin Boundary Area Commission, 619 2nd St., Hudson, Wisconsin 54016; (612) 436-7131.

MEDICAL SERVICES REVIEW BOARD has 1 vacancy open for an alternate member representing employer/insurer. The board advises the department on medical matters relating to workers compensation and hears appeals under Chapter 14. Members are appointed by the Commissioner of Labor and Industry. Members receive $35 per diem plus expenses. Members must file with the Ethical Practices Board. For specific information contact the Medical Services Review Board, Dept. of Labor and Industry, 444 Lafayette Rd., St. Paul 55101; (612) 297-3467.

REHABILITATION REVIEW PANEL has 1 vacancy open for an alternate member representing employer/insured. The panel advises the commissioner on rehabilitation matters relating to workers compensation and hears appeals under Chapter 14. Members are appointed by the Commissioner of Labor and Industry. Members must file with the Ethical Practices Board. Members receive authorized expenses. For specific information contact the Rehabilitation Review Panel, Dept. of Labor and Industry, Office of Public Affairs, Space Center, 444 Lafayette Rd., St. Paul 55101; (612) 297-3467.

MINNESOTA JOB SKILLS PARTNERSHIP BOARD has 1 vacancy open for a member to fill an unexpired term through January 1, 1988 with possibility of reappointment. The board is in particular need of women applicants with business experience from rural southern or western Minnesota. The board brings together employers with specific training needs with educational or other non-profit institutions which can design programs to meet those needs. It shall train and place workers, and assist in development of training programs. Members and chairperson are appointed by the Governor. Members receive no compensation. For specific information contact the Minnesota Job Skills Partnership Board, 406 Capitol Square Bldg., St. Paul 55101; (612) 296-0388.

Teachers Retirement Association

Meeting Notice

The Board of Trustees, Minnesota Teachers Retirement Association will hold a meeting on Friday, September 25, 1987 at 9:00 a.m. in Suite 500, Gallery Building, 17 West Exchange Street, St. Paul, MN 55102 to consider matters which may properly come before the Board.

Department of Trade and Economic Development

Office of Financial Management

Notice of Availability of Tax Exempt Financing Issuance Authority as of September 8, 1987

Pursuant to Minn. Laws 1987, ch. 268, article 16

The Department gives notice that the amounts of tax exempt financing authority available to qualified issuers as of September 8, 1987, is as follows:

Manufacturing Pool (Small Issue Bonds)	$ 71,000,000.00
Multifamily Housing Pool	$ 50,770,000.00
Public Facilities Pool	$ 3,495,380.00

The issuance authority in the pools shown above is available to qualified issuers submitting applications, the required deposit and supporting documents by any Monday through the second to the last Monday in October.

The issuance authority shown below is available to issuers submitting applications during the period beginning with the week ending on the last Monday in October through the second last Monday in December.

Unified Pool	N/A

Application forms are available from the Department upon request.

Department of Trade & Economic Development

Community Development Division

Report Available to the Public on the 1987 Small Cities Development Program Performance Evaluation

Notice is hereby given that the 1987 Small Cities Development Program (SCDP) Performance Evaluation Report (PER) is available for public review and comment. Section 104(a)(2)(D) and (E) of the Housing and Community Development Act requires the state to make the mandatory PER available to the public prior to its submission to the U.S. Department of Housing and Urban Development. The PER consists of a listing of all of the funded SCDP projects, including proposed and accomplished goals. Inquiries about the PER should be directed to:

Louis Jambois
Minnesota Department of Trade & Economic Development
9th Floor, American Center Bldg.
150 E. Kellogg Blvd.
St. Paul, MN 55101
612-297-3172

Comments on the PER must be received by September 28, 1987.

State Contracts and Advertised Bids

Pursuant to the provisions of Minn. Stat. § 14.10, an agency must make reasonable effort to publicize the availability of any services contract or professional and technical services contract which has an estimated cost of over $2,000.

Department of Administration procedures require that notice of any consultant services contract or professional and technical services contract which has an estimated cost of over $10,000 be printed in the *State Register*. These procedures also require that the following information be included in the notice: name of contact person, agency name and address, description of project and tasks, cost estimate, and final submission date of completed contract proposal. Certain quasi-state agencies are exempted from some of the provisions of this statute.

Commodities contracts with an estimated value of $15,000 or more are listed under the Procurement Division, Department of Administration. All bids are open for 7-10 days before bidding deadline. For bid specifics, time lines, and other general information, contact the appropriate buyers whose initials appear in parentheses next to the commodity for bid, by calling (612) 296-6152.

Department of Administration: Procurement Division

Contracts and Requisitions Open for Bid

Call 296-6152 for Referral to Specific Buyers, whose initials are next to each commodity.

Commodity for Bid (and Buyer)	Bid Closing Date at 2 pm	Department or Division	Delivery Point	Requisition #
Printing equipment (JD)	September 16	State University	Bemidji	26 070 13301
Storage batteries (EFS)	September 16	Various	Various	Price Contract Schedule
Washer & dryer (DRT)	September 17	Correction Facility	St. Cloud	78 830 08950
ESK telephone system—rebid (PA)	September 17	Natural Resources	St. Paul	29 000 46122
IBM equipment (PAT)	September 21	Community College	St. Paul	27 138 49752
IBM equipment (PAT)	September 21	Community College	St. Paul	27 138 49742
Maintenance worker overload (ES)	September 21	Plant Management	St. Paul	Price Contract
Clean ceiling (BV)	September 22	Jobs & Training	St. Paul	21 200 16332
Contracts for aerial spraying (JS)	September 22	Natural Resources	Various	29 000 46756, 7, 8

Department of Administration: Printing & Mailing Services

Printing vendors for the following printing contracts must review contract specifications in printing buyers office at 117 University Avenue, Room 134-B, St. Paul, MN.

Commodity for Bid (and Buyer)	Bid Due Date at 2 pm	Department or Division	Delivery Point	Requisition #
Overload composition	September 16	Printing & Mailing Div—	St. Paul	Price Contract
Unemployment benefits folder	September 17	Jobs & Training	St. Paul	820
State Register printing order form	September 17	Administration	St. Paul	836
Notice of action and grant calculation form	September 17	Human Services	St. Paul	1012
Refund form	September 17	Human Services	St. Paul	1305
Renewal application and license	September 17	Health	Minneapolis	1461
License form	September 17	Health	Minneapolis	1460
Annual status report form	September 17	Teachers Retirement Assoc.	St. Paul	1678
Permit for children's camp	September 17	Health	Minneapolis	1413 1462
Yellow certification seed tags	September 18	Agriculture	East Grand Forks	1721 1722
Pre-bill envelope with and without permit	September 22	Public Safety	St. Paul	8501&1 07700 45967&8
College bulletins	September 22	Community College	Rochester	1530&1 27148 50131&2

State Designer Selection Board

Request for Proposal for a Project at the Minnesota Correctional Facility—Lino Lakes, Minnesota

TO REGISTERED PROFESSIONALS IN MINNESOTA:

The State Designer Selection Board has been requested to select a designer for a project at the **Minnesota Correctional Facility—Lino Lakes, Minnesota.** Design firms who wish to be considered for this project should submit proposals on or before 4:00 p.m., **October 6, 1987,** to George Iwan, Executive Secretary, State Designer Selection Board, Room G-10, Administration Building, St. Paul, Minnesota 55155-1495.

The proposal must conform to the following:

1. Six copies of the proposal will be required.

2. All data must be on 8½″ × 11″ sheets, soft bound.

3. The cover sheet of the proposal must be clearly labeled with the project number, as listed in number 8 below, together with the designer's firm name, address, telephone number and the name of the contact person.

4. **Mandatory Proposal contents in sequence:**

a) Identity of firm and an indication of its legal status, i.e. corporation, partnership, etc. If the response is from a joint venture, this information must be provided for firms comprising the joint venture.

b) Names of the persons who would be directly responsible for the major elements of the work, including consultants, together with brief descriptions of their qualifications. If desired, identify roles that such persons played in projects which are relevant to the project at hand.

c) A commitment to enter the work promptly, if selected, by engaging the consultants, and assigning the persons named 4b above along with adequate staff to meet the requirements of work.

d) A list of State and University of Minnesota current and past commissions under contract or awarded to the prime firm(s) submitting this proposal during the three (3) years immediately preceding the date of this request for proposal. The prime firm(s) shall **list and total** all fees associated with these projects whether or not the fees have been received or are anticipated. In addition, the prime firm(s) shall indicate the amount of fees listed which were paid directly to engineers or other specialty consultants employed on the projects listed pursuant to the above.

e) A section containing graphic material (photos, plans, drawings, etc.) as evidence of the firm's qualification for the work. The graphic material must be identified. It must be work in which the personnel listed in "c" have had significant participation and their roles must be clearly described. It must be noted if the personnel named were, at the time of the work, employed by other than their present firms.

The proposal shall consist of no more than twenty (20) faces. **Proposals not conforming to the parameters set forth in this request will be disqualified and discarded without further examination.**

5. **Statutory Proposal Requirements:**

In accordance with the provisions of *Minnesota Statutes*, 1981 Supplement, Section 363.073; for all contracts estimated to be in excess of $50,000.00, all responders having more than 20 full-time employees at any time during the previous 12 months must have an affirmative action plan approved by the Commissioner of Human Rights before a proposal may be accepted. **The proposal will not be accepted unless it includes one of the following:**

a) A copy of your firm's current certificate of compliance issued by the Commissioner of Human Rights; **or**

b) A statement certifying that firm has a current certificate of compliance issued by the Commissioner of Human Rights; **or**

c) A statement certifying that the firm has not had more than 20 full-time employees in Minnesota at any time during the previous 12 months; **or**

d) A statement certifying that the firm has an application pending for a certificate of compliance.

6. In accordance with the provisions of *Minnesota Statutes* 16B.19, Subdivision 6, at least 10% of the amount of any contract in excess of $200,000.00 must be subcontracted to certified small businesses owned and operated by S/E/D persons as defined by *Minnesota Statutes* 645.445. Alternatively, the requirement may be met by purchasing materials or supplies from S/E/D businesses. Any combination of subcontracting and purchasing that meets the 10% requirements is acceptable. If there are no S/E/D persons able to perform subcontracting or provide supplies and materials, other small businesses as defined are to be utilized instead of small businesses owned and operated by S/E/D persons.

7. Design firms wishing to have their proposals returned after the Board's review must follow one of the following procedures:

a) Enclose a self-addressed stamped postal card with the proposals. Design firms will be notified when material is ready to be picked up. Design firms will have two (2) weeks to pick up their proposals, after which time the proposals will be discarded; **or**

b) Enclose a self-addressed stamped mailing envelope with the proposals. When the Board has completed its review, proposals will be returned using this envelope.

In accordance with existing statute, the Board will retain one copy of each proposal submitted.

Any questions concerning the Board's procedures or their schedule for the project herein described may be referred to George Iwan at (612) 296-4656.

8) PROJECT—30-87

Co Hage Additions
Minnesota Correctional Facility
Lino Lakes, Minnesota

Background

The Minnesota Correctional Facility—Lino Lakes is located in Lino Lakes, Minnesota, on 160 acres approximately twenty miles north of the Twin Cities in Anoka County. From 1963 to 1978 the facility was called the Metropolitan Training Center. It served as a state juvenile reception center and later as juvenile treatment center for Hennepin, Ramsey, and Anoka Counties.

In 1978, after experiencing a decline in juvenile population, the center was remodeled and converted into a medium security adult facility. Its name was changed to the Minnesota Correctional Facility—Lino Lakes.

Five medium security cottages house inmates within the facility's secure perimeter. Four minimum security cottages are located outside the perimeter. Two of the minimum security cottages are on lease to Anoka County.

The existing 5 cottages are single story, brick facing, with full basement. Interior walls are metal studs with plaster finish. Exterior walls are block masonry. Roof deck is preformed concrete decking.

The 1987 legislature gave the Commissioner of Corrections authority to sell two minimum security cottages at the Minnesota Correctional Facility—Lino Lakes to Anoka County. Further, he was authorized to use the funds gained in that sale for the construction of additional bed space in the medium security area. (See *Laws of 1987*, Chapter 403, Section 5, Subdivision 4.) A sale price of $960,000.00 has been agreed upon and documents to complete that sale are being drawn up.

This transaction was initiated in response to serious population problems that the department is facing. The need for additional medium security beds is becoming critical. For that reason, we are anxious to proceed with the new construction as quickly as possible. Although the funds are not yet deposited in the state treasury, that will happen in the near future. The Anoka Board of Commissioners has approved the purchase and the Commissioner of Corrections has cleared the proposal with the appropriate legislative committee chairs.

To briefly describe the project requested, it is the State's intention to add a wing to each of the five medium security cottages. This would provide approximately twenty additional bedrooms in three cottages that currently house 34 inmates each. Ten bedrooms would be added to two other cottages that now contain 20 and 22 inmates respectively. The design of each wing must be such that the total cottage can still be supervised by one staff officer. An initial cost estimate came to $1,350,000.00. Obviously, we may have to reduce the number of cottages we modify at this time.

Contact

Minnesota Correctional Facility—Lino Lakes—William McGrath, Business Manager (612) 780-6117, or

Department of Corrections—James Zellmer, Director of Institution Support Services (612) 642-0247.

Time Frame of Project

—Start construction by early spring of 1988

—Finish project mid summer of 1988

Damon Farber, chairman
State Designer Selection Board

Department of Jobs and Training

Request for Proposals for Preparation of Multi-Year Planning Document

The Department of Jobs and Training (DJT) is requesting proposals from highly qualified firms or individuals to assist the Agency in the development of a multi-year planning document required by the U.S. Department of Labor to fund DJT's conversion to an employer quarterly wage detail based unemployment insurance processing system.

Project Scope

The purpose of project is to provide the U.S. Department of Labor with the documentation necessary to secure federal approval and funding support to accomplish the redesign and conversion of the major unemployment insurance processing systems.

Project Tasks

The contractor will be required to complete the following tasks:

- Review documentation and instructions for multi-year planning process as outlined by the U.S. Department of Labor.
- Review several multi-year plans previously accepted by the U.S. Department for content and form, for use as a guide in the preparation of the DJT plan.
- Review Minnesota legislation mandating the collection of quarterly wage detail records from employers to assist in the planning process.
- Review existing systems and plans developed internally at DJT to be utilized to meet the legislatively imposed deadlines for implementation of wage detail activities.
- Review other State Employment Security Agency operations to determine which states should be visited by members of DJT to review processes, systems, concepts and equipment already functional and in place which might be exportable to DJT.
- Determine the advantages and disadvantages to using the U.S. DOL UI Automation Support Acct. as a vehicle for potential funding for hardware required for the wage detail conversion project.

The contractor, with the assistance of DJT staff, will be required to produce the following documentation:

- A multi-year plan with supplemental budget requests that contains the Required information necessary for acceptance by the U.S. Department of Labor.
- An overall plan for wage detail implementation.
- Evaluation of existing states operations for potential exportable UI systems.
- A plan of action for site visits to other states.
- Alternatives for utilizing the UI Automation Support Account for the DJT wage detail conversion project.

Project Completion Date

The project must be completed six weeks from the starting date of the work.

All selection criteria are described in a request for proposal available from the Minnesota Department of Jobs and Training. Selection will follow the review of all proposals received before the deadline. Responders will be expected to demonstrate ability to initiate service as soon as possible following selection and awarding of the contract.

Funding for this contract is dependent on the specifications in the final contract.

This notice does not obligate the State to complete this project. The State reserves the right to cancel this solicitation if it is considered to be in the best interest of the State.

Copies of the request for proposal and other information about this project are available from:

Bob Roy
Project Manager
Wage Detail Conversion
Department Of Jobs And Training
390 North Robert Street
St. Paul, Minnesota 55101
(612) 296-8734

All proposals must be submitted to Bob Roy of the Department Of Jobs And Training no later than 4:00 P.M., Monday, September 23, 1987.

Department of Jobs and Training

Notice of Availability of Request for Proposals to Provide Systems Analysis and Planning Services for Statewide Client Intake, Referral and Inventory System

The Minnesota Department of Jobs and Training and the Department of Human Services are requesting proposals to provide systems analysis and planning services for a statewide client Intake, Referral and Inventory System (IRIS).

The project will require that the contractor provide the following services:

- Review and analyze the current IRIS plans to gain an understanding of the intent of IRIS and the reasons for its implementation by the Departments of Jobs and Training and Human Services.
- Review the subsystems being developed by the Departments of Human Services and Jobs and Training to identify IRIS related issues.
- Interview selective IRIS system and subsystem developers in the Departments of Human Services and Jobs and Training to confirm requirements set forth in the current IRIS plan.
- Develop an IRIS Action Plan which would include projected timetables for IRIS implementation, critical issues requiring resolution by the Departments of Human Services and Jobs and Training and estimated resource requirements.

The result of the work will be an updated IRIS study refining the scope, purpose, objectives and development strategy options for implementation. The study will include an assessment of critical issues involved in coordinating redesign efforts of Departments of Human Services and Jobs and Training systems, cost projections, timetables for implementation, and developing and assessing alternatives. In addition, the contractor will provide short-term and long-term marketing plans to be used by Departments of Human Services and Jobs and Training personnel to educate and inform appropriate State/Federal representatives. The contractor will also develop a presentation outline and appropriate visual aids needed to conduct the briefings. The marketing strategy will be completed after the IRIS study update.

The project must be completed six weeks from the starting date of the work.

All selection criteria are described in a request for proposal available from the Minnesota Department of Jobs and Training. Selection will follow the review of all proposals received before the deadline. Responders will be expected to demonstrate ability to initiate service as soon as possible following selection and awarding of the contract.

Funding for this contract is dependent on the specifications in the final contract.

This notice does not obligate the State to complete this project. The State reserves the right to cancel this solicitation if it is considered to be in the best interest of the State.

Copies of the request for proposal and other information about this project are available from:

Larry Simmons
Research and Policy Development Division
Department of Jobs and Training
3rd Floor, 390 North Robert Street
St. Paul, MN 55101
(612) 296-6055

Proposals must be submitted to Mr. Simmons at the above address by 4:00 p.m., September 23, 1987.

Non-State Public Contracts

The *State Register* also serves as a central marketplace for contracts let out on bid by the public sector. The *Register* meets state and federal guidelines for statewide circulation of public notices. Any tax-supported institution or government jurisdiction may advertise contracts and requests for proposals from the private sector.

It is recommended that contracts and RFPs include the following: 1) name of contact person; 2) institution name, address, and telephone number; 3) brief description of project and tasks; 4) cost estimate; and 5) final submission date of completed contract proposal. Allow at least three weeks from publication date (four weeks from date article is submitted for publication). Surveys show that subscribers are interested in hearing about contracts for estimates as low as $1,000. Contact the editor for further details.

Carver County

Notice of Availability of a Contract for Road and Bridge Environmental Impact Statement and Design Study Report September 11, 1987

The County of Carver is seeking assistance from qualified consultants for performance of an environmental impact statement and a design study report on the 18.5 mile T.H. 212 corridor from the east end of the Cologne bypass to I-494 in Eden Prairie.

The anticipated scope of services is:

1. Prepare the Draft and Final Environmental Impact Statements and conduct the required public hearings. Obtain Federal Highway Administration adequacy acceptance of the Final Environmental Impact Statement. Obtain a "record of decision" selecting the T.H. 212 corridor from the Federal Highway Administration.

2. Prepare the Design Study Report and conduct the required public hearing. Obtain Federal Highway Administration approval of the Design Study Report.

The county may expand or reduce the scope of services as the need dictates.

Those consultants who wish to be considered should submit seven (7) copies of a Statement of Qualifications which include Standard Forms 254 and 255. Each statement shall be limited to 25 pages including both Standard Forms. Consultants should also indicate whether or not they are Equal Employment Opportunity firms having Affirmative Action Plans. Statements should be submitted to: Roger M. Gustafson, Carver County Highway Engineer, 600 East Fourth Street, Chaska, Minnesota, 55318.

Statements shall be submitted by 3:00 p.m., Tuesday, October 6, 1987.

If more information concerning the project is desired, the firm should contact Mr. Gustafson, phone number (612) 448-3435.

A seven agency task force will review the Statements of Qualifications from all interested consultants and will establish a short list of consultants to be interviewed. The task force will be composed of representatives of the cities of Chaska, Chanhassen, and Eden Prairie; the counties of Carver and Hennepin; the Minnesota Department of Transportation; and the Metropolitan Council.

A contract for the necessary services will be negotiated.

State Grants

In addition to requests by state agencies for technical/professional services (published in the State Contracts section), the *State Register* also publishes notices about grant funds available through any agency or branch of state government. Although some grant programs specifically require printing in a statewide publication such as the *State Register*, there is no requirement for publication in the *State Register* itself.

Agencies are encouraged to publish grant notices, and to provide financial estimates as well as sufficient time for interested parties to respond.

Department of Trade & Economic Development

Community Development Division

F.Y. 1988 Small Cities Development Program Grant Cycle to Begin

Notice is hereby given that the Small Cities Development Program (SCDP) F.Y. 1988 grant cycle will begin on September 21,

1987. Application materials will be available on or after September 21st. Application training workshops will be conducted as follows:

Date/Day	Location
09/22/87—Tuesday	Bemidji City Hall 401 Minnesota Avenue Bemidji, MN
09/23/87—Wednesday	Albert Lea City Hall 221 E. Clark Street Albert Lea, MN
09/29/87—Tuesday	Arrowhead Regional Development Commission 330 Canal Park Drive Duluth, MN
09/29/87—Tuesday	Redwood Falls City Hall 330 So. Washington Street Redwood Falls, MN
10/01/87—Thursday	MN Dept. of Trade & Economic Development American Center Building 150 East Kellogg Blvd. 9th Floor—Conference Room 3 St. Paul, MN

Registration begins at 8:30. The workshops will begin at 9:00 and run until 12:00. After lunch (on your own) SCDP staff will be available for individual discussions on specific projects.

There is no charge for these workshops.

The deadline for receipt of completed 1988 Small Cities Development Program Applications is January 29, 1988.

The SCDP, which is funded by the U.S. Department of Housing and Urban Development, is a competitive grant program designed to meet critical social, economic, and environmental needs of communities throughout the state. Its purpose, as stated in federal law, is "the development of viable urban communities by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income." Eligible applicants include cities and townships of under 50,000 population and counties of under 200,000 population. The SCDP focuses on housing rehabilitation, public facility development (sewer, water, etc.) and comprehensive projects. Comprehensive projects may include housing, public facility and economic development components. It is anticipated that approximately $15 million will be available for the SCDP in FY '88.

For application information or more information about the SCDP, contact:

Louis Jambois
Minnesota Department of Trade & Economic Development
9th Floor, American Center Building
150 E. Kellogg Blvd.
St. Paul, MN 55101
612-297-3172

Supreme Court Decisions

Decisions Filed Friday 11 September 1987

C3-87-940 Helen M. Issacson v. Minnetonka, Inc. and St. Paul Fire and Marine Insurance Company, Relators, Minnesota Department of Jobs and Training, intervenor. Workers' Compensation Court of Appeals.

The finding of the Workers' Compensation Court of Appeals that the employer received statutory notice or knowledge of the work injury is reversed.

Reversed. Kelley, J.

Took no part, Coyne, J.

Announcements

Arts Board New deadlines have been established for the board's Career Opportunity Grant program, one of the few short-term artist assistance grants available in the nation. Bimonthly deadlines are: in 1987—Sept. 25, Nov. 30; in 1988—January 29, Mar. 31, and May 31. Applications must be received at the board offices by 4:30 pm on the deadline date. Applicants may request grants in variable amounts from $100 to $1,000, and their projects have six months to be completed. The grants are designed to fund impending, concrete opportunities of significant merit to an artist's work or career. Professional individual artists working in the visual, literary, or performing arts are eligible to apply. For information call (612) 297-2603 or toll-free in Minnesota 1-800-652-9747.

Educators, artists, parents, and all citizens are invited to participate in arts education town hall meetings throughout the state during the fall of 1987. The open forums will ask for public response to arts in education goals, ideas and methods for improving arts education, and will provide information about current arts education services. Local artists will also perform or demonstrate at each meeting. For more information and a list of meetings contact the local forum facilitator or the board at the numbers above.

Environmental Quality Board: Environmental Assessment Worksheets (EAWs) comments, and the projects' regional governing unit, due October 7 are: CSAH 83—Reconstruction and Realignment, B.J. Larson, Scott County; Dunvilla Park, Ottertail County; and the Mapleton Wastewater Treatment Facility, Minnesota Pollution Control Agency (MPCA). Petitions were submitted for the Gateway North Industrial Airport and referred to the City of Ramsey, and the Cliff Lake Galleria and Towers and referred to the City of Eagan.

Health Department: Daniel J. McInerney, Jr., has been named to be Minnesota's new Deputy Commissioner of Health, succeeding Dr. Valentine O'Malley. Dr. William Dietz, chair of the Task Force on Children and Television of the American Academy of Pediatrics and frequent critic of television's effect on children, will speak at 3:30 pm in the Chesley Room at the Minnesota Department of Health at 717 Delaware Street, S.E., Minneapolis. The talk is open to the public free of charge.

Department of Jobs & Training: The Minneapolis-St. Paul metropolitan area unemployment rate dipped to 3.9% in July, down from 4.1% in June and equaling the July 1986 rate. The comparable national unemployment rate for July was 6.1% and the statewide reading for the month was 4.6%. The metropolitan area labor force in July was 1,347,100, down 1,500 from June and up 29,000 from July of last year. The number of persons employed in July was 1,294,500, up 1,200 from June and up 28,000 from July a year ago. The number of unemployed persons in the Twin Cities area in July was 52,600, down 2,700 from June and up 1,200 from July a year ago.

Minnesota Educational Computing Corporation (MECC): MECC has just released its new *1987-88 Catalog* featuring over 325 educational software products as well as a variety of valuable services. For copies of the 70-page catalog write to MECC at 3490 Lexington Avenue North, St. Paul, MN 55126-8097 or call (612) 481-3500, or customer service toll-free 1-800-228-3504. The Commission on the Bicentennial of the United States Constitution has officially licensed MECC's educational computer game based on key issues and persons that affected the creation of the United States Constitution in 1787. *To Preserve, Protect and Defend* is the first educational software package to receive this recognition.

Transportation Department (Mn/DOT): Three state agencies—Transportation, Public Safety and Education—have teamed up to offer a special bicycle education program aimed at elementary students due to a dramatic rise in bicycle fatalities (nearly five times that of motorists) over last year. The fatality rate doubled with 12 deaths reported so far this year. The bicycle education program is available on loan at no charge to schools, communities or organizations, and consists of eight hours of classroom, video and on-bike training. It was rated the best of forty such programs by the Bike Federation of America. Contact Brian Erickson, State Patrol Safety Education Officer at (612) 593-8580.

Workers' Compensation Court of Appeals: The Minnesota Workers' Compensation Court of Appeals has moved to 775 Amhoist Tower, 345 St. Peter Street, St. Paul, MN 55102. Oral arguments will be conducted in the 12th floor courtroom of the Amhoist Tower, and documents should be filed at this new address.

NOTARY PUBLIC LAWS

Statutory requirements regarding the oath of office, necessary bond, and taking of depositions. Includes an explanation of the term of office and procedures for removal from office. Code No. 2-13. $4.00.

Jane Smith
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
My Commission Expires January 1, 1994

U.S. SMALL BUSINESS ADMINISTRATION PUBLICATIONS:

Insurance and Risk Management for Small Business	Code No. 16-50. $3.00.
Small Business Finance	Code No. 16-42. $2.00.
Starting and Managing a Small Business of Your Own	Code No. 16-40. $4.75.

TO ORDER: Send to Minnesota Documents Division, 117 University Avenue, St. Paul, MN 55155. (612) 297-3000, or toll-free in Minnesota: 1-800-652-9747 and ask for "DOCUMENTS." Please include 6% sales tax, and $1.50 postage and handling. Prepayment required. Please include daytime phone. VISA/MasterCard orders accepted over phone.

Publication editors: As a public service, please reprint this ad in your publication as is, reduced, enlarged, or redesigned to suit your format. Thank you.

Catching criminals is only one part of law enforcement. Here's the rest of it.



Police Report Writing Style Manual 1986–A common framework for report writing throughout the state. Discusses the general purpose of police reports, reviews field notetaking, offers instructions on completing common report forms, and introduces the Data Practices Law. Code No. 14-13. $12.50.

Background Investigation Manual 1986–A guide to conducting effective thorough background investigations of peace officer candidates. Included are various criteria for use in the selection process: experience, education, and past behavior. Sample forms. Code No. 14-15. $10.00.

Motor Vehicle Traffic Laws 1986–Includes laws governing motor carriers, motor vehicle registration and no-fault auto insurance. Code No. 2-85. $12.50.

Criminal Code & Selected Statutes 1986–Governs the conduct of peace officers. Includes continuing education requirements, sentencing standards, and more. Code No. 2-68. $12.00.

Blue Binder–3 ring. 2" capacity. Criminal Code and Motor Vehicle Traffic Laws require 1 binder each. Code No. 10-21. $4.25.

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Murder: Minnesota style

Murder in Minnesota is a treasury of vintage crimes. Characters, some famous, some obscure, come to life in all their cleverness or murderous madness. Minnesota cases from 1858-1917. 253 pp. photos, index. Code 17-35, $5.95.

Robber and Hero On September 7, 1876 six members of the James-Younger gang blasted their way out of Northfield, Minnesota. George Huntington's classic account of the Northfield Bank raid is as fascinating today as it was when first published 19 years after the attempted robbery. 125 pp., charts, maps, photos, with index. Code 17-40, $5.95.

Secrets of the Congdon Mansion The prosecutor called it a crime of greed. A complex, intriguing murder case, set in one of Minnesota's most spectacular mansions, and now a top Minnesota tourist attraction on Duluth's famous Lake Superior North Shore Drive. By Joe Kimball, 64 pp., drawings. Code 19-56, $4.95.

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Human Services Laws and Rules



Human Services Laws 1986
An extract from the statutes. Includes legislative amendments and additions from the most recent session. Code No. 2-56. $20.00

Human Services Rules as in effect July 7, 1986
Rules governing assistance programs, eligibility grant amounts, AFDC and residence requirements. MN Rules Chapter 9500-9580. Code No. 3-95. $24.95.

Human Services Rules Supplement 1987. Includes recent changes to many rules in effect from July 1986 through January 1987. Code #3-95s1, $14.00.

3 ring binder. 2″ capacity. 1 required for each of above listed publications. Code No. 10-21. $4.25.

TO ORDER: Send to Minnesota Documents Division, 117 University Avenue, St. Paul, MN 55155. (612) 297-3000, or toll-free in Minnesota: 1-800-652-9747 and ask for "DOCUMENTS." Please include 6% sales tax, and $1.50 postage and handling. Prepayment required. Please include daytime phone. VISA/MasterCard orders accepted over phone.

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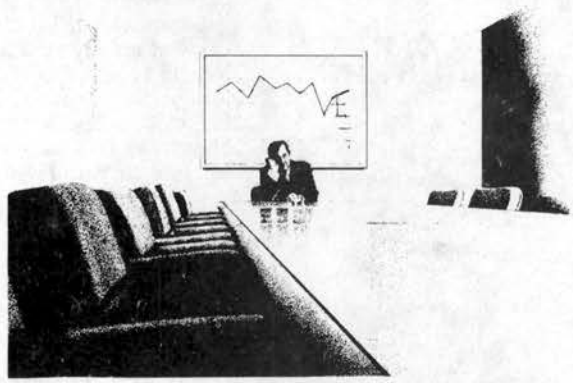
Business and NonProfit Corporation Act

Laws governing establishment and conduct of for-profit and non-profit businesses and corporations. Covers incorporation, bylaws, mergers, dissolution, franchises, and definitions. Contains Minnesota Statutes Chapters 80B. 302A, and 317. Paperbound, 102 papers, Code # 2-87, $10.00.



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Woodworking for Wildlife



Woodworking for Wildlife, delightfully written and carefully illustrated with a variety of game bird and mammal box designs. Includes important information on the placement of nests in proper habitat areas and maintenance requirements. Diagrams, 48 pp. Code #9-14, $6.00.

Help Minnesota's Wildlife, feed the birds and give to the Nongame Wildlife Checkoff on your Minnesota Tax Forms. Poster. 22″ x 17″, full color. Code #9-2, $4.00.

Fifty Birds of Town and City, describes the activities and habitats of these birds commonly seen today through full color paintings, Hardbound. 50 pp. Code #16-23, $7.50.

Mammals of Minnesota, discusses wild mammals that inhabit Minnesota today, or in the recent past. Tells how to identify them, their distribution in the state, and their natural history. U of M Press, 1977, illustrated, index, bibliography, paperbound, 290 pp. Code #19-35, $15.95.

Bird Portraits in Color, a total of 295 species of birds are depicted through magnificent illustrations, reproduced in seven-color lithography, accompanied by authoritative information about birds' activities, habitats, songs, and other characteristcs, U of M Press, 1980, index, 92 color plates, hardbound. Code #19-41, $12.95.

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Charitable Gambling Directory

A complete listing in alphabetical order of organizations licensed for charitable gambling in the state. Includes the name, address, zip code and name of contact person. 64 pages. Code #1-11. $20.00.

CHARITABLE GAMBLING RULES, governing the conduct of charitable gambling events like bingo. Code #3-3, $5.00.

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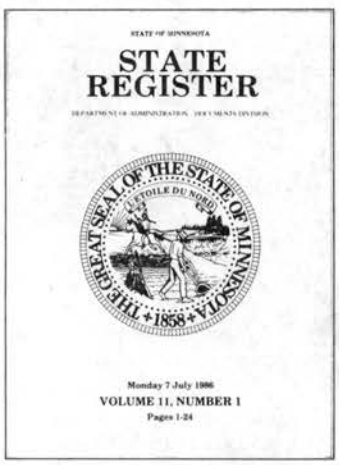

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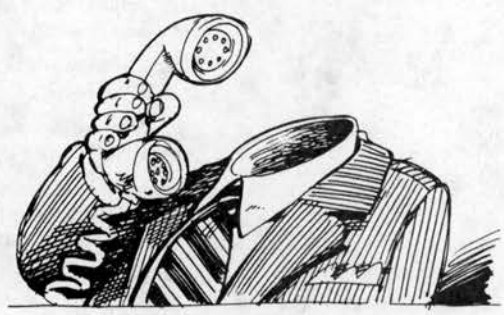
1987 & 1988 State of Minnesota Telephone Directory. Get a direct line to the persons you want to speak to. Contains names, numbers, and agencies in the executive, legislative and judicial branches of state government. Four sections give listings alphabetically name, agency, Minnesota region, plus an index for cross referencing. Over 250 pages, paperback, 8½"x11". Code #1-87, $10.95

U.S. Government Manual 1986-87. Contains comprehensive information on federal agencies of the legislative, judicial and executive branches of government. Each agency description includes address, phone number, a list of principal officials, a summary of each agency's purpose and programs and activities. Paperback 940 pages with appendices and index. Code #16-46. $19.00



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Department of Commerce Regulated Profession Publications

Banking Laws 1986. Complete text of state law governing banks, trust companies and other financial institutions. Code #2-76 $29.95

Business and Nonprofit Corporation Act 1986. Laws governing establishment and conduct of for-profit and non-profit corporations in Minnesota. Chapters 80B, 302A, 317. Code #2-87 $10.00

Fair Labor Standards Act 1985. Minimum wage and overtime compensation standards for employers. Chapter 177. Code #2-75 $3.50

Insurance Laws 1986. A compendium of laws applicable to the insurance business. Includes chapters on company and individual agents licensing requirements. Code #2-1 $14.95

Insurance Rules 1986. Essential licensing information for businesses and agents. Includes standards on policies, practices, marketing and continuing education. Code #3-1 $14.00

Notary Public Laws 1986. Statutory requirements regarding the oath of office, necessary bond, and taking of depositions. Includes an explanation of the term of the office and procedures for removal from office. Code #2-13 $4.00

Real Estate Laws 1986. Complete and up-to-date extract from the 1986 Minnesota Statutes. Code #2-92 $5.00

Real Estate Rules 1986. Contains all education and licensing requirements for agents. Chapters 2800, 2805, and 2810. Code #3-99 $7.00

Securities Laws 1985. Governs the activities of broker/dealers, agents or investment advisors. Chapter 80A. Code #2-12 $4.00

Securities Rules 1985. Subjects include standards of conduct, equity securities, investment companies and more. Chapter 2875. Code #3-5 $11.00

Banking Rules 1987. New rules are expected in early fall '87. Call then for more information.

Uniform Commercial Code 1986. Chapter 336, U.S. laws governing trade, including contracts, title, payment, warranties, performance and liability. Code #2-2 $10.00

Mailing Lists. All kinds available. A catalog will be available in late summer '87. Call to receive a copy, (612) 297-2552 or 296-0930.

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Pheasants in Minnesota

Pheasants in Minnesota, focusing exclusively on the ringneck pheasant, this DNR booklet tells of this popular game bird's origin, introduction and development in Minnesota. Through many full-color photos the book shows the pheasant in various settings, tells how to maintain wildlife habitat and explains the wise management of the hunt. A great gift for each member of your hunting party, or as a memento to a special Minnesota hunting vacation. Quantity discounts available. Code #9-13, $5.95.



Woodworking for Wildlife, delightfully written and carefully illustrated with a variety of game bird and mammal box designs. Includes important information on the placement of nests in proper habitat areas and maintenance requirements. Diagrams, 48 pp. Code #9-14, $6.00.

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Complete attached order blank. Include either your VISA/MasterCard number with the expiration date, or a check/money order made out to the State of Minnesota. Orders by phone are accepted when purchasing with your VISA/MasterCard or if you have a customer deposit account. Please include a phone number where you can be reached during the day in case we have questions about your order.
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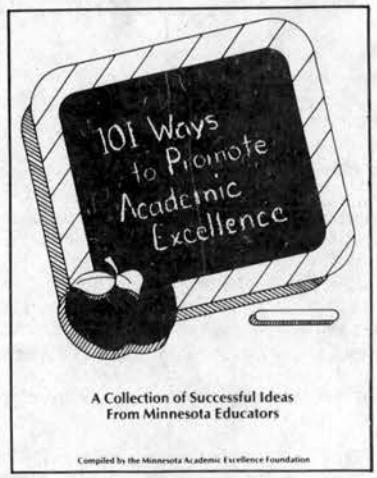

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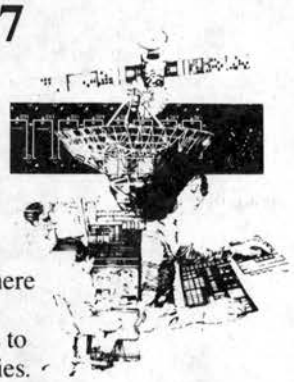

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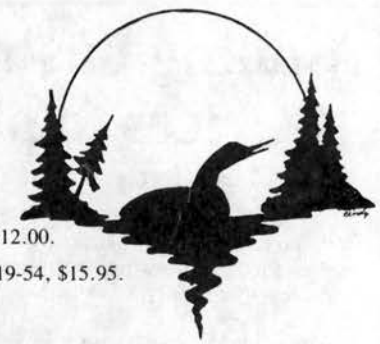

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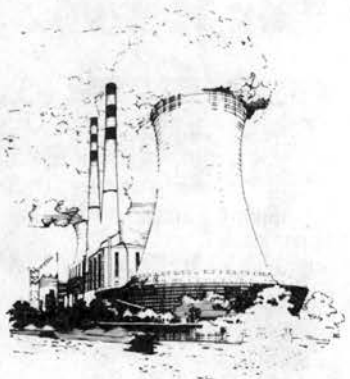

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CERTIFICATE OF RESOLUTION ADOPTING RULES

I, Gerald L. Willet, do hereby certify that I am the Commissioner of the Minnesota Pollution Control Agency, an agency duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Minnesota Pollution Control Agency duly and properly called and held on the 23rd day of August 1988, that a quorum was present at said meeting, that a majority of those present voted for the resolution and that said resolution will be set forth in the minutes of said meeting and has not been rescinded or modified:

BE IT RESOLVED, that the Minnesota Pollution Control Agency adopts the attached amendments to proposed rules Minn. Rules Chap. 7076, rules relating to the Clean Water Partnership.

BE IT FURTHER RESOLVED, that prior to publishing the amended rules as adopted in the State Register, the Commissioner is authorized to make any form changes in the rules that the Revisor of Statutes or the Office of the Attorney General require the Agency to make in order to obtain the Revisor's Certificate as required by Minn. State Sec. 14.28 (1986) or the Attorney General's approval as required by Minn. Rule part 2010.0300.

BE IT FURTHER RESOLVED, that the Agency adopts the attached Supplemental Findings of Fact, Conclusions, and Order Adopting Rule Revisions and that the Commissioner is hereby authorized to sign the above-mentioned document on behalf of the Agency and to perform the necessary acts to provide that the rule shall have the force and effect of law.

24th IN WITNESS WHEREOF, I have hereunto subscribed my name this day of August 1988.

Gerald L. Willet
Commissioner

CERTIFICATE OF RESOLUTION ADOPTING RULES

I, Gerald L. Willet, do hereby certify that I am the Commissioner of the Minnesota Pollution Control Agency, an agency duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Minnesota Pollution Control Agency duly and properly called and held on the 28th day of June, 1988, that a quorum was present at said meeting, that a majority of those present voted for the resolution and that said resolution will be set forth in the minutes of said meeting and has not been rescinded or modified:

> BE IT RESOLVED, that the Minnesota Pollution Control Agency (Agency) hereby approves and adopts, the rules governing the Clean Water Partnership Program, Minn. Rules Chapter 7076, pursuant to the authority vested in the Agency by Minn. Stat. § 115.10 (1987).
>
> BE IT FURTHER RESOLVED, that prior to publishing the rules as adopted in the State Register, the Commissioner is authorized to make any form changes in the rules that the Revisor of Statutes requires the Agency to make in order to obtain the Revisor's Certificate as required by Minn. Stat. § 14.28 (1986).
>
> BE IF FURTHER RESOLVED, that the Agency adopts the attached Findings of Fact, Conclusions and Order Adopting and that the Commissioner is hereby authorized to sign the above-mentioned document on behalf of the Agency and to perform the necessary acts to provide that the rule shall have the force and effect of law.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 28 day of June, 1988.

Gerald L. Willet
Commissioner

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rules Governing the Clean Water Partnership Program, Minn. Rules Parts 7076.0100 to 7076.0290

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULES

The above-entitled matter came on for decision before the Minnesota Pollution Control Agency (Agency) on the 28th day of June, 1988. After affording all interested persons the opportunity to present written and oral data, statements and arguments to the Agency, in accordance with statutory requirements regarding the adoption of noncontroversial rules, after considering the Statement of Need and Reasonableness, after considering all of the evidence adduced upon the records, files and proceedings herein, the Agency, being fully advised in the premises, hereby adopts the following Findings of Fact, Conclusions, and Order:

FINDINGS OF FACT

1. Notice of the Minnesota Pollution Control Agency's intent to adopt the above-entitled rules without a public hearing together with the proposed rules, was published in the State Register on April 18, 1988, and was sent by mail to all persons on the list maintained by the Agency pursuant to Minn. Stat. §§ 14.14, subd. 1a and 14.22 (1986) and to interested persons on April 15, 1988.

2. The Statement of Need and Reasonableness was prepared prior to mailing and publication of the notice and was made available to the public.

3. All persons were given the opportunity to submit comments on the rule for 30 days after notice of proposed rulemaking. The 30 day comment period, as set out in the notice, expired on May 18, 1988.

4. No requests for public hearing were received during the comment period.

5. No requests for notice of submission to the Attorney General were received by the Agency.

6. During the comment period, the Agency received two written comments - one from Anoka County and a second from the Metropolitan Waste Control Commission.

7. The Agency finds that the comments received support two changes in the rules as proposed. These changes relate to identification of local permits or approvals required to complete a proposed project and clarification of language relating to the criteria to be used to evaluate grant applications.

8. The County of Anoka commented that it is important that the applicant submit evidence that the proposed project be carried out in compliance with local ordinance requirements. It would be cumbersome to require evidence of compliance with local ordinances at the time of application for a grant, but it is reasonable to require identification of local ordinances that apply to the project. Local requirements are as important to identify in the implementation plan as the federal and State permits and approvals required in the proposed Minn. Rules pt. 7076.0250, item H. This modification is reasonable because it provides information to the Agency on local regulations in addition to State and federal regulations that may affect the proposed project. This modification is not substantially different from the rules as proposed. The proposed modification to Minn. Rules pt. 7076.0250, Implementation Plan, item H is as follows:

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

9. The Metropolitan Waste Control Commission recommended language for clarification of the proposed Minn. Rules pt. 7076.0170, subp. 2 (Priority points for project development grant applications) and subp. 3 (Priority points

for project implementation grant applications). These modifications improve the clarity and readability of the rule. These modifications are not substantially different from the rules as proposed. The proposed modification to Minn. Rules pt. 7076.0170, subp. 2 (Priority points for project development grant applications) is as follows:

> The following criteria must be used to determine the number of priority points ~~a project for which a project development grant application has been submitted is entitled to~~ to be awarded in the evaluation of each project development grant application.

The proposed modification to Minn. Rules pt. 7076.0170, subp. 3 (Priority points for project implementation grant applications) is as follows:

> The following criteria must be used to determine the number of priority points ~~a project for which a project implementation grant application has been submitted is entitled to~~ to be awarded in the evaluation of each project implementation grant application.

10. The Metropolitan Waste Control Commission (MWCC) made several other comments that the Agency does not concur merit modifications to the proposed rule.

a. The MWCC recommended a local water plan be a requirement for eligibility. The Agency does not concur with a modification here, because the proposed rule is consistent with Minn. Stat. sec. 115.097 which requires the applicant to submit a local water plan with the application to be eligible for assistance. The proposed rule and statute are consistent with the MWCC recommendation.

b. The MWCC commented on the need for clarity on grant eligibility of projects related to NPDES permits for storm water discharges. The Agency does not concur with a modification here, because the proposed rule clearly identifies that activities required by the NPDES permits program (Minn. Rules pts. 7001.1000 to 7001.1100) are ineligible costs for reimbursement through the program.

c. The MWCC commented on the need for the rules to include a process for appealing the Commissioner's decision to reject a grant application. The Agency does not believe that a specific process is necessary because Minn. Rules pt. 7076.0160, subpart 3 provides an applicant whose application is rejected 14 days to correct deficiencies and resubmit the application. Minn. Rules pt. 7076.0190, subpart 3 provides that all final decisions of the agency in ranking projects and awarding grant must be made at a regular or special board meeting, which provides the applicant an opportunity to appeal the Commissioner's decision. If the applicant is still dissatisfied, they have the same rights to seek judicial review of a final decision of this Agency as any other person aggrieved by a decision of the Agency.

d. The MWCC commented on the need for the rules to include a process for appealing the Agency's decision on the ranking of the applicants. Again, the right to judicial review exists without the need to specify it in the proposed rule. Also, proposed Minn. Rules pt. 7076.0190, subp. 3 provides that all decisions of the Agency in ranking projects and awarding grants will be made at a regular or special board meeting, which ensures that decisions will be made in a public forum providing an opportunity for applicants to appear before the Board.

e. The MWCC recommended that a diagnostic study include the identification of private water supply intakes and wells. The Agency does not concur with this modification to the proposed rule. This information would be expensive to collect and not necessary for many of the projects.

11. The Agency adopts the Statement of Need and Reasonableness, in its entirety, as the factual basis for the proposed rules. The Agency hereby incorporates the Statement of Need and Reasonableness into these findings.

12. The above-captioned rule is needed and reasonable.

CONCLUSIONS

1. The Minnesota Pollution Control Agency duly acquired and has jurisdiction over this proceeding.

2. The Agency published and served due, timely and adequate notice of the intent to adopt the rules without a public hearing.

3. All relevant legal and procedural requirements of statute and rule have been complied with.

4. The changes that are being made in the rules do not result in rules that are substantially different from what was proposed in the State Register.

ORDER

NOW, THEREFORE, IT IS ORDERED, that the proposed Minn. Rules pts. 7076.0100 to 7076.0290 governing the Clean Water Partnership Program published at 12 State Register pages 2296-2309 are adopted pursuant to the authority vested in the Minnesota Pollution Control Agency by Minn. Stat. § 115.10 (Supp. 1987) with the following changes:

1. Minnesota Rules Part 7076.0170 Project Ranking, Subparts 2 and 3 are amended as follows:

Subp. 2. Priority points for project development grant applications. The following criteria must be used to determine the number of priority points a ~~project for which a project development grant application has been submitted is entitled to~~ to be awarded in the evaluation of each project development grant application.

Subp. 3. Priority points for project implementation grant applications. The following criteria must be used to determine the number of priority points ~~a project for which a project implementation grant application has been submitted is entitled to~~ to be awarded in the evaluation of each project implementation grant application.

2. Minnesota Rules Part 7076.0250 Implementation Plan, Item H is amended as follows:

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

MINNESOTA POLLUTION CONTROL AGENCY

Dated:

Gerald L. Willet

Gerald L. Willet
Commissioner

COUNTY OF ANOKA

COMMUNITY HEALTH & SOCIAL SERVICES DEPARTMENT
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April 26, 1988

MPCA
c/o Gaylen Reetz
520 Lafayette Road N.
St. Paul, MN 55155

Dear Mr. Reetz:

Reference is made to the proposed rules relating to "Clean Waters Partnership Grants." Specifically, reference is made to part 7076.0150, subpart 3, and part 7076.0160, subpart 1.

The two referenced subparts should also require submission of evidence of compliance with local (city/township and County) ordinance requirements. The need for such coordination can be seen in 1985 MPCA approval of the Oak Grove 201 sewer project and grant issuance before project plans were submitted to the County as required by the County Shoreland Ordinance. Requiring such local ordinance compliance would benefit all parties (MPCA, County, and proposing agency).

If you have any questions concerning this matter, please feel free to call on me or Jon Christensen (422-7066) of my office.

Sincerely,

Robert M. Hutchison
Director, Environmental Services

RMH:kk-8

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520 Lafayette Road North
St. Paul, MN 55155

Subject: Comments on Proposed Rules Governing Clean Water Partnership Program, Minn. Rules Parts 7076.0100 to 7076.0290

Dear Mr. Reetz:

The MWCC has reviewed the Notice of Intent to Adopt Rules Without a Public Hearing for the Proposed Rules Governing Clean Water Partnership Program, Minn. Rules Parts 7076.0100 to 7076.0290. The following details the comments we wish to submit regarding these rules.

A. Part 7076.0130. p.4. The eligibility criteria do not expressly require a local unit of government to have a water plan. However, a water plan is required to be submitted with the application. The eligibility requirements should include a water plan which describes a commitment to nonpoint source control and establishes the necessary associated authority for implementation. The definition of "local water plan" should be refined to include this nonpoint source commitment throughout the proposed rules.

B. Part 7076.0130. p.5. lines 24-26. Any relevance of this part to stormwater studies/projects before and after NPDES permit requirements for stormwater discharges needs to be included for clarity.

C. Part 7076.0160. A provision for appeal of the Commissioner's decision should be included as well as the time frame for an appeal.

D. Part 7076.0170. A provision for appeal of a project's position on the priority list should be included as well as the time frame for an appeal.

E. p.11, 12. lines 1-4. Alternative wording for lines 1-4 could be, "The following criteria must be used to determine the number of priority points to be awarded in the evaluation of each project development grant application."

50 years
1938-1988

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M.P.C.A.
Water Quality Div.

F. Part 7076.0240. Sub 3. Item J (3). A change in Item J. (3) to, "The location of community public and private water supply, intakes, and wells;" would include another potential source of ground water data in the project area description.

The MWCC appreciates the opportunity to review and comment on the proposed rules.

Sincerely,

Louis J. Breimhurst
Chief Administrator

cc: D. Madore
H. Boyer

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rules Governing the Clean Water Partnership Program, Minn. Rules Parts 7076.0100 to 7076.0290

SUPPLEMENTAL FINDINGS OF FACT, CONCLUSIONS AND ORDER ADOPTING RULE REVISIONS

The above-entitled matter came on for decision before the Minnesota Pollution Control Agency (Agency) on the 23rd day of August, 1988. After affording all interested persons the opportunity to present written and oral data, statements and arguments to the Agency, in accordance with statutory requirements regarding the adoption of noncontroversial rules, after considering the Statement of Need and Reasonableness, after considering all of the evidence adduced upon the records, files and proceedings herein, the Agency, being fully advised in the premises, hereby adopts the following Findings of Fact, Conclusions and Order.

FINDINGS OF FACT

1. The Agency adopted Minn. Rules parts 7076.0100 to 7076.0290, Rules Relating to the Clean Water Partnership Program, on June 28, 1988.

2. Pursuant to the Attorney General Rule, Minn. Rules part 2010.0300, the Agency submitted the adopted rules to the Attorney General for review and approval as to form and legality.

3. On August 11, 1988, the Agency was informed that the rules would be disapproved unless two changes were made to the rules. The two changes are described in Finding No. 4 below. In response to this information, the Agency withdrew the rule from the Attorney General review for correction.

4. The Agency finds that, in order to correct the defects in the rule identified by the Attorney General, the following two changes in the rule are needed and reasonable:

a. Minn. Rules part 7076.0160, subp. 1 should be amended to read:

Grounds. An application for a project development grant or a project implementation grant shall ~~may~~ 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.

b. Minn. Rules part 7076.0280, subp. 3 should be amended to read:

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

These changes do not constitute a substantial change because: 1) the revised rules still affect the same classes of persons as those affected by the original rule; 2) the revised rules do not introduce any new subject matter into the rule; and 3) the changes do not alter the provisions of the rule in any manner except to limit, in a lawful manner, the discretion of the Commissioner.

CONCLUSIONS

1. The Minnesota Pollution Control Agency duly acquired and has jurisdiction over this proceeding.

2. All relevant legal and procedural requirements of statute and rule have been complied with.

3. The changes that are being made in the rules are needed and reasonable and do not result in rules that are substantially different from what was proposed in the State Register.

ORDER

NOW, THEREFORE, IT IS ORDERED, that the proposed rules Minn. Rules parts 7076.0100

to 7076.0290 as adopted by the Agency on June 28, 1988, are amended as follows:

1. Minn. Rules part 7076.0160, subp. 1 should be amended to read:

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MINNESOTA POLLUTION CONTROL AGENCY

Dated: August 23, 1988

Gerald L. Willet
Commissioner

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rules Governing the Clean Water Partnership Program, Minn. Rules Parts 7076.0100 to 7076.0290

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MINNESOTA POLLUTION CONTROL AGENCY

Dated: August 23, 1988

Gerald L. Willet
Commissioner

STATE OF MINNESOTA
Office Memorandum

DEPARTMENT : **Pollution Control Agency**

PHONE : (612) 297-1831

DATE : 8/24/88

TO : Julie A. Leppink
Assistant Attorney General
Office of the Attorney General

FROM : Curtis J. Sparks, P.E., Chief
Program Development Section
Division of Water Quality

SUBJECT : **Resubmission Of Rules Relating To The Clean Water Partnership Program**

On August 23, 1988, the Minnesota Pollution Control Agency adopted the changes you required for approval of Minn. Rules Parts 7076.0100 to 7076.0290, governing the Clean Water Partnership Program.

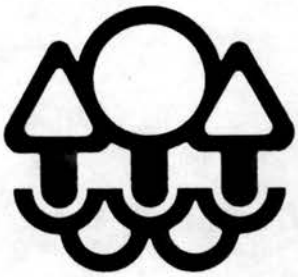
Please find attached for inclusion in the official file:

1. Rules with changes you requested (original and three copies).

2. Supplemental Findings of Fact, Conclusions and Order Adopting Rule Revisions (two copies).

3. Certificate of Resolution Adopting Rules.

If you have any questions, please call Gaylen Reetz of my staff at (612) 296-8834.



Minnesota Pollution Control Agency

To Whom It May Concern:

The attached Statement of Need and Reasonableness in the matter of the proposed rules governing the Clean Water Partnership Program, Minn. Rules Parts 7076.0100 to 7076.0290 dated April 18, 1988, is the same as the Statement of Need and Reasonableness available since March 11, 1988, with changes necessary to reflect the editorial revisions made by the Revisor of Statutes.

Phone:_____
520 Lafayette Road, St. Paul, Minnesota 55155
Regional Offices • Duluth/Brainerd/Detroit Lakes/Marshall/Rochester
Equal Opportunity Employer

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rules Governing the Clean Water Partnership Program, Minn. Rules Parts 7076.0100 to 7076.0290

STATEMENT OF NEED AND REASONABLENESS

I. INTRODUCTION

A. Nature of the Rules

Minnesota Statutes section 115.091 (Supp. 1987), established the Clean Water Partnership Program (hereinafter CWPP). The program focus is control of nonpoint sources of pollution to protect and improve surface and ground water in Minnesota.

The Minnesota Pollution Control Agency (hereinafter "Agency") is required to adopt rules for administration of state matching grants to local units of government for nonpoint source pollution control projects. These projects include the development of a diagnostic study and implementation plan and the implementation of that plan. The diagnostic study analyzes specific water quality problems and sources of pollution and identifies realistic project goals and objectives. The implementation plan identifies the combination of best management practices, activities and protective measures that will be necessary to solve the identified problems and achieve the identified goals and objectives. The implementation of the plan includes the installation of best management practices and the promotion of educational activities and other measures identified as necessary to control nonpoint sources of pollution.

The proposed rules identify the application requirements, criteria for determining priority for the award of State funds, requirements for the development of a diagnostic study and implementation plan and other aspects of administration and implementation of the program. The proposed rules provide

the mechanism to implement federal funds that may become available through Section 319 of the Water Quality Act of 1987.

B. Background

Since the passage of the Clean Water Act, many of the Agency and the U.S. Environmental Protection Agency (EPA) programs have focused efforts on point sources of pollution - discharges of wastewater from municipal sewage treatment systems and from industrial and commercial operations. Minnesota Water Quality: Water Years 1984-1985 Report to Congress included a trend analysis that indicates water quality impacts from municipal and industrial sources are declining as a direct result of improved wastewater treatment (Exhibit 1). However, nonpoint sources of pollution continue to degrade surface and ground water quality in Minnesota. In 1986, an interagency team, made up of thirteen agencies with responsibility and authorities for addressing nonpoint sources of pollution, reviewed existing state and federal programs and past program recommendations. The interagency team recommended the establishment of a program to protect and improve surface and ground water in Minnesota through State financial and technical assistance to local units of government to fund locally sponsored projects for the control of nonpoint sources of pollution (Exhibit 2). The 1987 Minnesota Legislature enacted the Laws of Minnesota 1987, Chapter 392 establishing the Clean Water Partnership Program (Exhibit 3).

C. Rules Development Process

On September 14, 1987, a "Notice of Intent to Solicit Outside Information Regarding Proposed Rules Governing the Clean Water Partnership Program" was published in the State Register, 12 S.R. 469. The Agency received one set of written comments and one request for additional information.

As a result of comments received, discussions with managers of locally led water quality projects from around the state, and the Agency's own experience

managing water quality projects and grant programs, the Agency staff developed a set of draft rules to be used for discussion purposes.

On November 20, 1987, over 800 copies of the draft rules and an announcement of informational meetings were mailed to the following: interested individuals, environmental, conservation, farm and public policy organizations; soil and water conservation districts; watershed districts; watershed management organizations; planning and zoning administrators, and state and federal agencies. The meeting announcements included a request for those who could not attend an informational meeting to provide their comments to the Agency in writing or by phone.

Between November 30 and December 8, 1987, a series of six informational meetings were held in Owatonna, Marshall, Detroit Lakes, St. Cloud, Duluth and St. Paul. Attendance at the meetings ranged from nine to thirty-one people. The meetings included representatives of the following groups and organizations: soil and water conservation districts (supervisors and staff), counties (commissioners and staff), watershed districts (managers), cities (staff), Minnesota Department of Natural Resources (staff), private industry, and environmental organizations.

The Clean Water Partnership Act calls for the creation of a project coordination team, Minn. Stat. section 115.103 (Supp. 1987). The project coordination team was established by the Agency on October 26, 1987, through a letter to each agency and organization, requesting their attendance at a meeting November 9, 1987. The project coordination team includes representatives of the Pollution Control Agency, Department of Natural Resources, Board of Water and Soil Resources, Department of Agriculture, Department of Health, State Planning Agency, Minnesota Extension Service, University of Minnesota Agriculture Experiment Station, United States Army Corps of Engineers, United States

Environmental Protection Agency, United States Department of Agriculture-Agricultural Stabilization and Conservation Service, United States Department of Agriculture-Soil Conservation Service, Metropolitan Council, Association of Minnesota Counties, League of Minnesota Cities, Minnesota Association of Townships.

The project coordination team met for the first time on November 9, 1987 and discussed the rules development process, including the proposed informational meetings. The project coordination team met on December 10, 1987, considered the comments received at the six informational meetings and provided its own comments on the draft rules. The project coordination team met for a third time on March 3, 1988 discussed several changes to the rule and recommended the draft rule be finalized and sent to the Agency Board for its approval.

A joint meeting of the Agency Board Committees on Rules and Nonpoint Source Pollution met on December 14, 1987, to review the rule development process. The two committees, because of the noncontroversial nature of the rules and the comments received at the informational meetings, recommended that the discussion draft rules be revised to reflect the discussion at the committee meeting and brought to the Agency Board for authorization to proceed with adoption of the rules without a public hearing as soon as possible.

II. STATEMENT OF AGENCY'S STATUTORY AUTHORITY

The Agency's statutory authority to adopt the rules is set forth in Minn. Stat. section 115.10 (Supp. 1987), which provides:

> "The agency shall adopt permanent rules necessary to implement sections 1 to 12. The rules shall contain at a minimum:
> (1) procedures to be followed by local units of government in applying for technical or financial assistance or both;
> (2) conditions for the administration of assistance;
> (3) procedures for the development, evaluation, and implementation of best management practices;
> (4) requirements for a diagnostic study and implementation plan;

(5) criteria for the evaluation and approval of a diagnostic study and implementation plan;
(6) criteria for the evaluation of best management practices;
(7) criteria for the ranking of projects in order of priority for assistance;
(8) criteria for defining and evaluating eligible costs and cost-sharing by local units of government applying for assistance; and
(9) other matters as the agency and the director find necessary for the proper administration of sections 1 to 12, including any rules determined by the director to be necessary for the implementation of federal programs to control nonpoint source water pollution."

Under this statute, the Agency has the necessary statutory authority to adopt the proposed rules.

III. STATEMENT OF NEED

Minn. Stat. ch. 14 (1986) requires the Agency to make an affirmative presentation of facts establishing the need for and reasonableness of the rules as proposed. In general terms, this means that the Agency must set forth the reasons for its proposal, and the reasons must not be arbitrary or capricious. However, to the extent that need and reasonableness are separate, need has come to mean that a problem exists which requires administrative attention, and reasonableness means that the solution proposed by the Agency is appropriate. The need for the rules is discussed below.

As previously discussed, Minn. Stat. Section 115.10 (Supp. 1987) requires the Agency to adopt rules necessary to implement the Clean Water Partnership Program. In enacting this program, it was the purpose of the Legislature to protect and improve surface and ground water in Minnesota by providing financial and technical assistance to local units of government for the control of water pollution associated with nonpoint sources of pollution. Thus, these rules are needed to establish the program for awarding grant funds for nonpoint source control programs.

The 1972 Clean Water Act established a nationwide goal to restore and maintain the chemical, physical and biological integrity of the nation's waters. This is a goal the State of Minnesota is committed to achieving and maintaining.

Minnesota Water Quality: Water Years 1984-1985 Report to Congress included a trend analysis that indicates water quality impacts from municipal and industrial point sources are declining as a direct result of improved wastewater treatment. However, nonpoint sources of pollution continue to degrade water quality, particularly in areas where human activities and land use intensity are high. Many human activities and land uses result in pollution as nutrients, sediment, bacteria, toxic chemicals, and other pollutants are carried from agricultural, urban and other land use activities into surface and ground water. Major sources of nonpoint source pollution include: agricultural runoff; pesticide and fertilizer use; feedlot runoff; urban runoff from streets, yards and construction sites; leachate from septic systems; runoff from forestry and mining activities; highway de-icing chemicals; dredging and drainage activities; and the impacts from the loss of wetlands.

These sources of pollution result in a wide variety of water resource use impairments ranging from increased treatment costs for industrial and consumptive uses, and toxic contamination, to reduced recreational opportunities from degraded fisheries, impaired boating and loss of swimming opportunities.

Degradation of water quality from nonpoint sources of pollution may be the most serious and complex environmental problem in Minnesota today. It encompasses a wide range of pollutants generated by a large number of sources and causes serious impacts and use impairments of surface and ground water quality across the state. It is clear that the Clean Water Partnership Act is a useful tool in the arsenal against water pollution.

IV. STATEMENT OF REASONABLENESS

The Agency is required by Minn. Stat. ch. 14 to make an affirmative presentation of facts establishing the reasonableness of the proposed rules.

Reasonableness is the opposite of arbitrariness or capriciousness. It means that there is a rational basis for the Agency's proposed action. The reasonableness of the proposed rules is discussed below.

A. Reasonableness of the Rules as a Whole

The overall approach that the rules take to protect and improve surface and ground water in Minnesota and control the pollution of water resulting from nonpoint sources was laid out by the Legislature in Minn. Stat. section 115.091 through section 115.103 (Supp. 1987). This overall approach is: 1) that matching grants be awarded for up to 50 percent of the eligible costs of projects; 2) that eligible projects are those that include the development of diagnostic studies and implementation plans and the implementation of those plans; 3) that eligibility is limited to local units of government with the identified authorities and documents; 4) that the Agency is required to rank applications in order of priority for funding; and 5) that the agency must adopt rules that include the specified list of criteria, requirements and procedures for implementation and administration of the CWPP.

The Agency has followed the overall approach provided by the Legislature in preparing these rules. Therefore, the overall approach is reasonable.

B. Reasonableness of Individual Parts of the Rules

The following discussion addresses the specific provisions of the proposed rules.

PART 7076.0100 PURPOSE

Part 7076.0100 explains that the proposed rules will be used to administer the CWPP and federal funds made available through the federal Nonpoint Source Management Program, (Section 319 of the Water Quality Act of 1987). This language is reasonable because it is consistent with the legislative requirement for the agency to adopt rules.

PART 7076.0110 DEFINITIONS

Subpart 1. Scope.

This subpart explains that the terms used in the proposed rule are consistent with other Minnesota Statutes and rules related to pollution control. This is reasonable because it provides consistency with other rules and statutes of the Agency. Since controlling nonpoint sources of pollution may involve a range of programs, it is important there be consistency between rules. For example, Chapter 7050 contains the state's water quality standards. These standards are equally pertinent to controlling both nonpoint and point sources of pollution.

Subpart 2. Agency.

This subpart defines the word "Agency" to mean the Pollution Control Agency. This is reasonable because it shortens the text.

Subpart 3. Best management practices.

This subpart defines "best management practices" as they are defined in Minn. Stat. section 115.093. It is reasonable to emphasize the statutory definition because the statutory definition is broader than the common use definition and must be emphasized for clarity. This also alerts the reader to the fact that the proposed rule must be read in conjunction with the Clean Water Partnership Act.

Subpart 4. Commissioner.

This subpart defines the word "commissioner" to mean the Commissioner of the Pollution Control Agency. This is reasonable because it shortens the text.

Subpart 5. Land occupier.

This subpart defines the term "land occupier" to mean the individual, organization or government responsible for management of land in the project area. This is reasonable because nonpoint source pollution comes from many

diverse land uses, so broadly defining the term land occupier provides local units of government a program which is flexible enough to cover the broad range of situations that may be encountered.

Subpart 6. Local share.

This subpart defines the term "local share" to mean local match for state grants which may include the value of cash and in-kind contributions used or expended on eligible project activities. This is reasonable because it provides a broad definition of what may be included in the calculation of local match for the state funds while insuring that it is limited to eligible costs and activities directly related and necessary for the development and implementation of the project.

Subpart 7. Local unit of government.

This subpart defines "local unit of government" as it is defined in the Clean Water Partnership Act. It is reasonable to include the statutory definition in the rules because the statutory definition is broader than the common use definition and because this is the definition that establishes who is eligible for a grant. This also alerts the reader that the proposed rule must be read in conjunction with the Clean Water Partnership Act.

Subpart 8. Local water plan.

This subpart defines "local water plan" to mean either a 1) comprehensive water plan authorized under Minn. Stat. ch. 110B, 2) surface water management plan required under Minn. Stat. section 473.878, 3) overall plan required under Minn. Stat. ch. 112, or 4) until July 1, 1991, other local plan that provides an inventory of existing and hydrologic information on the area, a general identification of water quality problems and goals, and that demonstrates a local commitment to water quality protection or improvement. This definition is

a compilation of the statutory requirements in Minn. Stat. section 115.097 subd. 2(a)(b)(Supp. 1987). It is reasonable to define the term using statutory requirements, since one of these listed documents is required for a local unit of government to be eligible for assistance through the program.

Subpart 9. Nonpoint source.

This subpart defines "nonpoint source" as it is defined in the Clean Water Partnership Act. This alerts the reader to the fact that the proposed rule must be read in conjunction with the Clean Water Partnership Act.

Subpart 10. Official controls.

This subpart defines "official controls" as it is defined in the Clean Water Partnership Act. This alerts the reader that the proposed rule must be read in conjunction with the Clean Water Partnership Act.

Subpart 11. Person.

This subpart defines the term "person" as it is defined in Minn. Stat. section 115.01 subd. 10. It is reasonable to define "person" consistent with the use of the word in other pollution control statutes and rules.

Subpart 12. Project.

This subpart defines the term "project" to be the development and implementation of the diagnostic study and implementation plan by a local unit of government for control of nonpoint sources of water pollution. This is reasonable because it is defined in Minn. Stat. section 115.093, subd. 8 and it alerts the reader that the proposed rule must be read in conjunction with the Clean Water Partnership Act.

Subpart 13. Project area.

This subpart defines the term "project area" to be that area identified by the project sponsor where water flows, runs off, percolates or seeps to the lake, stream, aquifer or other water of the state, for which the diagnostic

study and implementation plan is developed and implemented. This is reasonable because it identifies the physical land area contributing pollutants to the specific water of concern on a hydrologic basis and helps determine the boundaries on the area to be studied when a grant is issued.

Subpart 14. Project continuation grant amendment.

This subpart defines "project continuation grant amendment" to be an amendment to an existing project implementation grant for additional funds to continue activities identified in an approved diagnostic study and implementation plan. In these rules the Agency has proposed to segment implementation projects over three years in length into two parts. Once a project sponsor has received a competitive project implementation grant, that grantee will be eligible to receive a second grant (project continuation grant amendment) on a noncompetitive basis. This insures existing projects will be completed before new projects are begun. This is reasonable because it improves the readability and the understandability of the text. It is helpful to keep continuation of grant amendments separate from the two types of competitive grants, since these amendments allow the continuation of an existing project.

Subpart 15. Project coordination team.

This subpart defines the "project coordination team" as the public interagency group established by the Legislature in Minn. Stat. section 115.103, subd. 1. This is reasonable because it is the term used in the statute to identify this group and it significantly shortens the text over identifying each of the member agencies.

Subpart 16. Project development.

This subpart defines "project development" to be the development of a diagnostic study and implementation plan. This is reasonable because the Agency has proposed to separate the development of the diagnostic study and

implementation plan from the implementation of the plan. This separation is the logical point to review project proposals, potential project success and make funding decisions. Defining project development separate from project implementation improves readability and understandability of the rule.

Subpart 17. Project development grant.

This subpart defines the term "project development grant" to be the grant from the Agency to the project sponsor for the preparation of an approvable diagnostic study and implementation plan. This is reasonable because the Agency has proposed to separate the project development grants from project implementation grants since the activities conducted under each grant are very different, and it affords the Agency a logical point to make grant related decisions based on technical data and information. Defining the project development grant separate from project implementation grants also improves readability and understandability of the rule.

Subpart 18. Project implementation.

This subpart defines "project implementation" to be the activities, measures and actions taken by the local unit of government identified in the approved implementation plan to control nonpoint sources of water pollution. This is reasonable because the Agency has proposed to separate the development of the diagnostic study and implementation plan from the implementation of the plan. This separation is the logical point to review project proposals, potential project success and make funding decisions. Defining project implementation separate from project development improves its readability of the rule by making it clear this is carrying out the activities discussed in the implementation plan.

Subpart 19. Project implementation grant.

This subpart defines "project implementation grant" to be the grant from the agency to the project sponsor for project implementation. This is

reasonable because the Agency has proposed to separate the project development grants from project implementation grants since the activities conducted under each grant are very different, and it affords the Agency a logical point to make a grant related decisions based on technical data and information. Defining the project implementation grants separate from project development grants also improves readability and understandability of the rule.

Subpart 20. Project sponsor.

This subpart defines the "project sponsor" to be the local unit of government that applies, contracts and is responsible for the development and implementation of the project. This is reasonable because it designates the lead local unit of government with responsibility for project development and implementation, while recognizing there may be several local units of government participating in project development and implementation. This also improves readability and understandability of the rule.

Subpart 21. Water pollution.

This subpart defines "water pollution" as it is defined in Minn. Stat. section 115.01, subd. 5. This is reasonable because it is defined in statute.

Subpart 22. Waters of the state.

This subpart defines "waters of the state" as it is defined in Minn. Stat. section 115.01, subd. 9. This is reasonable because it is defined in statute.

Subpart 23. Water of concern.

This subpart defines "water of concern" to be that specific lake, stream, aquifer or other water of the state for which the diagnostic study and implementation plan will focus on. This is reasonable because it allows the rule to be flexible for the inclusion of a broad range of projects that might be proposed in Minnesota.

PART 7076.0120 AVAILABLE ASSISTANCE

Subpart 1. Financial assistance.

This subpart identifies that there are two types of matching grants available: grants for preparation and completion of diagnostic study and for implementation plans and grants for implementation of that plan. This is reasonable because it is specified in the Clean Water Partnership Act and is the basis for much of the rule that follows.

Subpart 2. Technical assistance.

This subpart allows the agency to provide assistance, within the limits of available Agency resources, to local units of government that have applied for and obtained a grant. It is reasonable to restrict technical assistance to only those local units who get grants because the Agency has limited staff resources to carry out this activity. At the present time the Agency has four staff persons to administer the program and provide technical assistance. It would be difficult to provide technical assistance for every community that may seek it. By focusing on those that are awarded grants, the Agency will help ensure that a State financed project is proceeding smoothly. Technical assistance will include guidance on monitoring, analysis of data, selection of best management practice and project management.

PART 7076.0130 ELIGIBILITY CRITERIA

Subpart 1. Eligible applicants.

This subpart identifies that only local units of government with authority to enter into contracts, generate revenue and adopt and enforce official controls are eligible to apply for assistance through the program. This is reasonable because it is specified in the Clean Water Partnership Act, Minn. Stat. section 115.097 Subd. 1 (Supp. 1987).

Subpart 2. Eligible costs.

This subpart establishes the criteria for determining what costs associated with a project are eligible for reimbursement with grant funds. The first requirements are that the costs must be reasonable and necessary. Certainly, the Agency is not going to pay for things that were unreasonable or unnecessary.

The main thrust of this subpart, however, is the list of activities for which the costs will be grant eligible. Any costs for which a local unit of government seeks reimbursement must fall within one of these categories in order to be grant eligible.

The Agency has attempted in this list to identify the activities that will be necessary for the development or the implementation of a project. A community that has an anticipated costs for an activity that does not fall within categories A-G will have to get approval from the Agency under category H. Since the amount of the grant is determined before the project gets underway and the costs incurred, this decision should be made upfront so both the Agency and the project sponsor know before the costs are incurred whether the cost will be reimbursed.

In some cases the project sponsor will undoubtedly make changes in the project as the work progresses. In this event, the Agency strongly encourages the project sponsor to get prior approval of eligibility and reimbursement before incurring the expense.

Categories A-G reasonably list all those activities that will be necessary to develop or implement a project. The list includes information gathering costs, administrative costs such as report preparation, land acquisition costs, public dissemination costs, and the costs of installing or implementing the actual practices or controls to complete the project. We believe the list is adequate to include those costs that reasonably should be reimbursed and yet puts some restrictions on the costs that will be grant eligible.

Subpart 3. Ineligible costs.

This subpart identifies costs that are ineligible as reimbursable costs through the program. These include activities that occurred before the project began, activities that are required as a result of regulatory or other funding programs, and activities that are not within the purpose of the program. This is reasonable because this program was established with a purpose to protect and improve surface and ground water from nonpoint sources of pollution, and it is necessary to exclude from eligible costs pollution associated with point sources and sources of pollution which are regulated or for which funding is available for cleanup through existing programs. A diagnostic study will possibly identify sources of pollution in a project area that are included as ineligible costs for cleanup. It is reasonable not to fund every conceivable pollution cleanup program since any newly discovered sources of pollution should be referred to the appropriate program for remedial action. It is also reasonable to exclude activities that are not primarily for water quality protection and improvement, as such, it is not reasonable to include flood control and certain construction activities.

Subpart 4. Eligible local share.

This subpart requires the locals to provide at least thirty percent of the project costs from nonfederal and nonstate funding sources. It also clarifies that costs provided by an individual for best management practices may be considered as part of the local share as long as the primary purpose is water quality, the best management practices are an integral part of the project, and best management practices will be effective for at least ten years as provided in an operation and maintenance plan. This is reasonable because it provides incentive for the local project participants to take ownership in the long term maintenance of the project investment. It is reasonable to allow the project to

include some state and federal funds in the local share because it encourages coordination of existing programs with the projects. For example, if a certain agricultural field is identified as a serious source of pollution and the only apparent cost-effective solution would be to remove it from intensive agricultural production, it is possible the local units of government could coordinate the retirement of the field from production through the Minnesota Reserve Program or the USDA-Conservation Reserve Program. The state or federal costs to remove the field from production could count as local share up to the point that the maximum for state and federal contribution to local share is reached. The conditions placed on a land occupier's contribution to local share ensures the contribution is directly related to the project and is of a minimum effective life. The requirement that thirty percent of project costs come from nonstate and nonfederal funds was discussed in the informational meetings and widely supported as a reasonable formula for local share. This combination provides the local project sponsor some flexibility in providing the local match, while insuring local ownership of the project and long term commitment to its operation and maintenance.

PART 7076.0140 NOTICE OF GRANT AVAILABILITY

Subpart 1. Notice.

This subpart requires the agency to publish in the State Register a notice that project applications will be accepted. The notice must be published sixty days prior to the application deadline. This is reasonable because it establishes a procedure to announce acceptance of applications and sets a deadline for application submittal which starts the ranking and project selection process. The Agency intends to assist local units of government prepare applications over a period longer than sixty days, but this provides the official notice of a submittal deadline.

Subpart 2. Notification list.

This subpart requires the agency to maintain a list of local units of government who wish to be notified of application periods published in the State Register. This is reasonable because it provides direct notification of local units of government interested in the program.

Subpart 3. Grant application periods.

This subpart requires the Agency to establish for each calendar year in which funds are available at least one application period. This is reasonable because it allows the Agency flexibility in establishing application periods so that this program can be coordinated with the federal Nonpoint Source Management program established through Section 319 of the Water Quality Act of 1987.

PART 7076.0150 GRANT APPLICATION

Subpart 1. General requirements.

This subpart requires the application to be submitted by the project sponsor before the deadline and to include the required information. This is reasonable because it ensures that the project sponsor is the actual applicant, emphasizes the requirement to have the application in before the deadline, and identifies there are specific requirements identified in this rule.

Subpart 2. Project development grants.

This subpart sets forth what is required in an application for a project development grant. What is required is the basic information related to the proposed project, including identification of the water body, its problems, estimated cost of the proposed activities, amount requested in the grant, a schedule for completion and identification of project sponsor and others involved in the project as well as statutory application requirements. It is reasonable to require this information because it is the information necessary to determine how well the project fits the criteria established for prioritizing the projects.

A. The resolution provides an official action assuring the Agency the project sponsor is serious about the project and identifies a person who may represent the project sponsor in meetings with the Agency.

B. Requiring documentation that the project sponsor has consulted soil and water conservation districts and watershed districts in preparing the application, allows the Agency to determine if the applicant meets the requirements identified in Minn. Stat. section 115.097 Subd. 2(a)(2)(Supp. 1987).

C. This information advises the Agency on who will be responsible for assisting the project sponsor in completing the proposed tasks and work activities.

D. These resolutions provide the Agency with assurance that the participating local units of government recognize their involvement in the project, both in terms of activities and funding.

E. The grant request identifies to the Agency the amount of funds the project sponsor needs to complete the activities proposed. This not only allows the Agency to insure that the grant request is for not more then 50 percent of the project cost, but it also identifies those communities that do not need the full percent. The Agency expects that some applicants will request less then the full 50 percent available. Requesting only the amount that is actually needed will allow the Agency to fund more projects.

F. Identifying the sources of local share assures the Agency the project sponsor is capable of raising the funds necessary to complete the project activities and that the applicant has the necessary local commitment to the project, a minimum of 30 percent.

G. The work plan and schedule identify for the Agency what the project sponsor proposes to do with the requested project funds, allowing the Agency to determine if the proposed activities are eligible costs, will result in an approvable diagnostic study and implementation plan and information on the waters of concern necessary for the Agency to award priority points.

H. The local water plan allows the Agency to determine if the application meets the requirements identified in Minn. Stat. section 115.097 Subd. 2(a)(3)(Supp. 1987), and provides information necessary for the Agency to avoid priority points.

I. The other documents that may be required, allow the Agency to administer federal funds through this set of rules when funds are made available through section 319 of the Water Quality Act of 1987.

Subpart 3. Project implementation grant.

This subpart requires a project sponsor seeking a project implementation grant to submit an approved diagnostic study and implementation plan, a detailed work plan, a budget, and the identification of the project sponsor and others

involved in the project. This is reasonable because this provides the Agency with the specific information necessary to review the project in terms of the ranking criteria in this rule.

A. The resolution provides an official action assuring the Agency the project sponsor is serious about the project and identifies a person who may represent the project sponsor in meetings with the Agency.

B. Requiring documentation that the project sponsor has consulted soil and water conservation districts and watershed districts in preparing the application, allows the Agency to determine if the applicant meets the requirements identified in Minn. Stat. Section 115.097 Subd. 2(a)(2) (Supp. 1987).

C. The approved diagnostic study and implementation plan provides technical information necessary for the Agency to award priority points based on the criteria in this rule. It also provides the work plan and schedule for the project. This diagnostic study and implementation plan are very important documents for water quality improvement as a result of the project because they identify the problems and solutions and how the project implementation activities will be accomplished. The study and plan are what is required of a project development grant recipient. These rules allow an eligible project sponsor apply for a project implementation grant if the project sponsor submits a local water plan to allow the Agency to determine if the application meets the requirements identified in Minn. Stat. section 115.097 Subd. 2(a)(3)(Supp. 1987) and a diagnostic study and implementation plan not funded through this program but meets the diagnostic study and implementation plan requirements of this rule.

D. This resolution provides the Agency with assurance the participating local units of government recognize their involvement in the project, both in terms of activities and funding.

E. The work plan and schedule for the grant period identify for the Agency what the project sponsor proposes to do with the requested funds and allows the Agency to determine if the proposed activities are eligible costs, technically feasible, and fiscally reasonable. The work plan and schedule provide important information for awarding priority points.

F. The budget identifies for the Agency the amount of funds necessary to complete the activities proposed for the grant period. The budget is important to review in conjunction with the work plan and schedule to award the priority points.

G. Listing the sources of the local share assures the Agency that the project sponsor is capable of raising the funds necessary to complete the project activities and has met the requirements for the local share.

H. The long term project work plan and budget provide the Agency with the project sponsor's best estimates of length and cost of the total project, which allows the Agency to budget and identify future program needs.

I. The other documents that may be required will allow the Agency to administer federal funds through this set of rules where funds are made available through Section 319 of the Water Quality Act.

PART 7076.0160 REJECTION OF GRANT APPLICATION

Subpart 1. Grounds.

This subpart identifies that an application may be rejected if the applicant is ineligible, the costs are ineligible, the application was received after the deadline for submittal, or the applicant has failed to comply with other requirements. It is reasonable to re-emphasize that an application will be rejected if the minimum requirements are not complied with. It is also important for applicants to know that their applications will not be prioritized and ranked if their application is rejected.

Subpart 2. Procedure.

This subpart requires the Commissioner to review each application within 30 days of the deadline for submittal and notify the applicant if rejected. This is reasonable because it insures the applicant will be made aware of the status of its application in a reasonable time frame. Thirty days should be sufficient for the Agency to review all grant applications that are submitted.

Subpart 3. Effect of rejection.

This subpart allows the applicant to revise and resubmit the application within 14 days of being notified of its rejection. This is reasonable because it allows an applicant who made errors or omitted information to revise its application and resubmit the application for consideration in the current funding cycle. The Agency wants to be able to assist local units of government in submitting acceptable applications and this chance to correct a deficient application will help minimize the disappointment of being rejected for submitting an incomplete application.

PART 7076.0170 PROJECT RANKING

Subpart 1. Process of ranking.

This subpart requires the Agency to rank independently the project

development applications and the project implementation applications according to the criteria that follow in Subparts 2 and 3. This is reasonable because it distinguishes applications for development of the diagnostic study and implementation plan from the applications for implementation of the plan. This is important since the project development applications will typically contain limited technical information to judge the merit of the project. The project implementation applications have very specific technical information upon which to judge the proposed project, as a result of having completed the diagnostic study and implementation plan. Therefore, it is reasonable to distinguish the two so that the basis to rank projects is made with similar and comparable information.

Subpart 2. Priority points for project development grant applications.

The Clean Water Partnership Act requires the Agency to establish "criteria for the ranking of projects in order of priority for assistance." Minn. Stat. Section 115.10(7) (Supp. 1987). This subpart establishes those criteria for ranking project development grant applications. Once the Agency has identified eligible applications, staff will review application documents and other information the Agency has in its data files in terms of the criteria identified in A through F and assign from zero to ten points for each criterion. The project coordination team will then review each application and assign from zero to ten points under criteria G. The points for each project will be totaled and the information presented to the Agency Citizens Board for final approval.

It is impossible to remove all subjectivity from a ranking scheme, but the criteria here will allow grant applicants to know what the Agency is looking for in a high priority project. It will be a subjective task to determine how many of the ten points for each criterion should be awarded a particular project, but at least there is an objective criterion against which to evaluate the project.

The Agency does not intend to comparatively rank each project under each criterion. Instead, each project will be evaluated according to the objective criterion. Thus, under each criterion more than one project can get a ten, or a one, or any other point award. For example, those projects that involve a good deal of community support will get a high ranking and those that do not will get only a few, or even zero, points for this criterion. The projects will not be ranked against each other.

The awarding of points for each project is a task that will be first performed by the Agency staff. The staff will then make its recommendation to the Agency Board. The applicants will have an opportunity to argue to the Board that they should be awarded more points than the staff recommended. At that point, there will undoubtedly be comparisons made between competing projects. The staff agrees that at that point it will be appropriate to make those comparisons; but in performing the first evaluation, the staff will evaluate the project against the criterion, not against the competing projects. Staff experience with review of projects over time may result in differences in standards for each criterion, so that the same project judged at different times might receive a different final score. (The procedure for making the final decisions or grant awards is provided for in Parts 7076.0180 and 7076.0190).

A discussion of each of the criterion follows below.

A. A measure of community support and involvement and the participation, coordination and cooperation between federal, state and local agencies and units of government for water quality protection and improvement through the project. This is reasonable because project success is directly related to public and private community support and involvement in the project. Since the project will often be dependent on individual land managers changing their land management activities, it is important to have broad community support for the project.

Since the proposed projects will often overlap political boundaries of many units of government with various resource management responsibilities, it is important to have federal, state and local agencies' and units of government'

involvement and support for the project. So the broader the support of the community at large and the greater the participation of local units of government with responsibility for resource management in the project area, the more likely a project will be successful and the more points that will be awarded. We do not envision that a project will get zero points in this category since there must be some degree of support to submit an application.

B. The extent to which the project takes place where local units of government have adopted and implemented authorities or official controls to abate or prevent water pollution from nonpoint sources. This is reasonable because it demonstrates a record of commitment and support for water quality protection. Examples of this commitment include adoption of: the Animal Feedlot Permit Program, Minn. Rules pts. 7020.1500 to 7020.1900, Individual Sewage Treatment System Ordinance, Minn. Rules ch. 7080, Soil Loss Limits Ordinance, Minn. Rules pt. 8400.4000, Shoreland Management Regulations, Minn. Rules ch. 6120 - Cooperative Soil Survey Program. The more active the local units of government have been in these programs, the more points that will be awarded. It should be relatively easy to determine whether the local units of government have taken official actions related to these programs.

C. The extent to which the water of concern is identified as a priority water in local water plans. This is reasonable because it demonstrates that the specific water of concern has gone through a formalized process identifying it as a priority to the locality. It is reasonable that projects for waters identified and emphasized in a local water plan receive more points than those which have not been identified through a formal local planning process because waters with such emphasis are a recognized priority to the locality.

D. The extent to which the project affects waters identified in the statewide resource assessment conducted under Minn. Stat. section 115.095. Waters identified in that assessment are those waters that could not be expected to attain or maintain compliance with applicable water quality standards or goals without additional control of nonpoint sources. This is reasonable because the Agency, through two data evaluation exercises and a survey of local resource managers has identified an extensive list of nonpoint source impacted water bodies in Minnesota in the Statewide Assessment of Nonpoint Source Pollution (Exhibit 4). Therefore, waterbodies identified through the assessment process are state priority waters with recognized nonpoint impacts and the Agency will review the relation and impacts on other waters of the State. So a proposed project not identified in the assessment may receive zero points, while a proposed project on the list which affects other high resource value waters may receive ten points.

E. The extent to which the project demonstrates transferability to similar resources. This is reasonable because the information from projects should be useful examples for protecting and improving similar resources across the state. More points will be awarded projects that provide experience of common value to other water quality projects.

F. The extent to which the project is of a size and scale to promote successful project management and water quality protection and improvement. This is reasonable because of the limited resources available in the program. The Agency believes it is reasonable to provide assistance to a greater number of small projects that promise a shorter time frame for water quality

improvement, than to provide assistance to a few, larger projects that will require longer times for completion. A massive 20 year project will not fit the time limits of this program and will be awarded zero or one point.

G. The priority placed on a project by the project coordination team. This is reasonable because this interagency group has a vast array of information related to resource management activities occurring across the state. The project coordination team will bring to the prioritization process information on the proposed projects in relation to other ongoing activities and management programs will and represent a broad perspective of interests around the state in awarding points.

Subpart 3. Priority point for project implementation grant application.

The Clean Water Partnership Act requires the Agency to establish "criteria for the ranking of projects in order of priority for assistance." Minn. Stat. Section 115.10 (7) (Supp. 1987). This subpart establishes those criteria for ranking project implementation grant applications. Once the Agency has identified eligible applications, staff will review application documents, including the approved diagnostic study and implementation plan in terms of criteria identified in A through F and assign from zero to ten points for each criterion. The project coordination team will then review each application and assign from zero to ten points under criterion G. The points for each project will be totaled and the information presented to the Agency Citizen Board for final approval.

It is impossible to remove all subjectivity from a ranking scheme but the criteria here will allow grant applicants to know what the Agency is looking for in a high priority project. It will be a subjective task to determine how many of the ten points for each criterion should be awarded a particular project but at least there is an objective criterion against which to evaluate the project.

The Agency does not intend to comparitively rank each project under each criterion. Instead, each project will be evaluated according to the objective criterion. Thus, under each criterion, more than one project can get a ten, or a one, or any other point award. For example, those projects that involve a

good deal of community support will get a high ranking and those that do not will get only a few, or even zero points for this criterion. The projects will not be ranked against each other.

The awarding of points for each project is a task that will be first performed by the Agency staff. The staff will then make its recommendation to the Agency Board. The applicants will have an opportunity to argue to the Board that they should be awarded more points than the staff recommended. At that point, there will undoubtably be comparisons made between competing projects. The staff agrees that at that point, it will be appropriate to make those comparisons; but in performing the first evaluation, the staff will evaluate the project against the criterion, not against the competing projects. Staff experinece with review of projects over time may result in differences in standards for each criteria, so that the same project judged at different times might receive a different final score. (The procedure for making the final decisions on grant awards is provided for in Parts 7076.0180 and 7076.0190).

A discussion of each of the criteria follows below.

A. The extent to which the project demonstrates a high potential for successful water quality protection and improvement based on a comparison of existing water quality and the project's goals and objectives with maximum contaminant levels and recommended allowable limits for drinking water and with water quality standards and regional lake and stream water quality criteria published by the Agency, the Minnesota Department of Health and the U.S. Environmental Protection Agency (Exhibits 5,6,7,8,9). This is reasonable because it provides a technical basis from which to compare the existing water quality and the goals of the project. For example, if a proposed aquifer project identifies that current water quality exceeds the water quality standards for nitrates in drinking water, and the project goals, objectives and project implementation would improve water quality to a level within the standard, it would receive more points than an aquifer project would not improve water quality enough to bring a high nitrate concentration below the standard even after project implementation. Exhibits 5 through 9 are examples of the standards against which the project goals will be compared.

B. The extent to which the project employs best management practices which provide a technically and economically feasible means to abate or prevent water pollution from nonpoint sources. This is reasonable because it looks at

the technical and economic feasibility of implementing the best management practices and their effectiveness in solving identified problems. For example, more points would be awarded a project that takes an approach which has demonstrated effectiveness in controlling nonpoint sources of pollution over an untried or expensive technology.

C. The extent to which the project maximizes water quality protection or improvement relative to the cost of project implementation. This is reasonable because funds for water quality improvement are limited and it is fiscally prudent to award more points to projects that demonstrate greater water quality improvement relative to their cost.

D. The extent to which the project goals and objectives are consistent with state water quality management plans and other related state and federal resource management programs. This is reasonable because it is the intention of the program to complement the state water quality management plan and other resource management programs. More points will be awarded to projects that have secondary benefits to other resource management efforts such as wildlife, fisheries and soil productivity. Less points would be given to projects which protect one resource but degrade another.

E. The extent to which the project demonstrates a high potential for project success based on community support and involvement as well as participation, coordination and cooperation of federal, state and local agencies and units of government for water quality protection and improvement. This is reasonable because project implementation success is based on individuals adopting best management practices across the political boundaries of many units of government with resource management responsibility. The broader the participation and support, the more points that will be awarded.

F. The extent to which the project demonstrates transferability to similar local units of government. This is reasonable because the information from projects should be useful for like efforts across the state. More points will be awarded projects that provide experience of common value to other water quality efforts.

G. The priority placed on a project by the project coordination team. This is reasonable because this interagency group has a vast array of information related to resource management activities occurring across the state. The project coordination team will bring to the prioritization process information on the proposed projects in relation to other ongoing activities and management programs and will represent a broad perspective of interests around the state in awarding points.

Subp. 4. Project coordination team.

This subpart requires the project coordination team to complete its assignment of points within 60 days from the close of the application period. It also allows for the Agency to proceed with ranking projects if the project coordination team does not assign points. This is reasonable because it

provides a reasonable amount of time for the project coordination team to act while insuring if there is not a concensus of opinion on the assignment of points, the Agency could proceed with the grant process.

PART 7076.0180 ALLOCATION OF FUNDING

Subpart 1. Project continuation grant amendments.

This subpart allows the Agency to reserve funds that the Agency determines will be necessary to provide project continuation grant amendments over the next year. This is reasonable because funds are reserved to provide continued noncompetitive funding to projects that have already completed several years of implementation work and for which project sponsors have demonstrated an ability to successfully manage the project. It is reasonable to reserve money to continue existing projects before beginning new efforts. Any funds not used may be reallocated for other grants. The Agency will make the decision by March 1, which allows plenty of time in the calendar year to make decisions on new grants and on whether the grant amendments will actually be requested.

Subpart 2. Grant fund allocation.

This subpart requires the Agency to identify within 90 days from the close of applications, the amount of funds that will be available for new project development and project implementation grants. This is reasonable because it requires the Agency to identify the amount of money that will be available for new project grants, while considering the availability of funds for upcoming grant periods and the maintenance of continuity of the program. This will allow the Agency to manage available funds and phase projects through the program. It is reasonable to allow the Agency to decide how much of the existing grant funds to award in one particular application period because it ensures that some money will be carried over. Also, making this decision after the applications are submitted, allows the Agency to determine whether the present set of

applications involves good projects. The Agency might very well decide to withhold money for another application period if the applications received are for low priority projects.

Subpart 3. Development; implementation split.

This subpart requires the Agency to identify the allocation of funds identified in Subpart 2 above between project development grants and project implementation grants. It requires the Agency to consider the availability of federal funds and the continuity and phasing of projects through the program. This is reasonable because the Agency wants to be able to split the available funds between project development grants and project implementation grants so that there are projects being carried through to completion while new ones begin in the development stage.

The Agency is proposing this subpart to explain how the decision on splitting up the money will be made. The major factors to look to in deciding how to split up the money between the two kinds of grants are how much money is available, how many projects are competing for the money, and what mix of projects are there. These are exactly the factors the Agency will look to.

The amount of money available depends on both the state appropriation and the allocation of federal monies to the state. Item A, therefore, recognizes that one of the factors to consider is the availability of federal funds. Moreover, sometimes EPA puts conditions on the use of the money. This must also be considered. For example, if EPA restricts federal money to only implementation projects, it will be preferable to use state funds for development and the federal funds for implementation.

The second criteria specified in the rule is the status of existing projects. In order to get the proper mix of development and implementation grants, it is important to evaluate where the existing projects are on the road

to completion. Initially, the Agency may prefer to fund mostly development projects; later the shift may be to implementation projects.

Of course, the allocation decision is affected greatly by the projects for which grant applications are submitted. The Agency may prefer to fund higher priority development projects over lower priority implementation projects. The projects are rated separately but it is still possible to make a comparison of the desirability of a particular development project with a particular implementation project.

PART 7076.0190 SELECTION OF PROJECTS FOR GRANT AWARDS

Subpart 1. Ranking.

This subpart requires the agency to rank all project applications within 90 days. This is reasonable because it establishes a time limit within which the Agency must act. The Agency should be able to complete its ranking of the projects within 90 days. When the ranking is done, the Agency will make available written results of the ranking process.

Subpart 2. Projects funded.

This subpart recognizes that the agency will award grants to the highest priority projects for project development and implementation within limits of available funds. It also requires that a project receive at least forty points to be considered for funding. This is reasonable because if a project cannot get over half of the points available in the ranking scheme, it may not have the potential to be a successful project. The Agency would expect the sponsor of such a project to go back and revise the project application to get a higher ranking and apply again.

Subpart 3. Agency decision.

This subpart requires the final agency decision relative to ranking and award of grants to be made at a meeting of the Agency Board. This is reasonable

because it ensures that decisions will be made in a public forum providing an opportunity for applicants to appear before the Board.

Subpart 4. Timing.

This subpart requires the Agency to make the funding allocation, project rank and selection for grant awards within 90 days of the close of application. This is reasonable because it establishes a time limit within which the Agency must act. Ninety days should be adequate for the Agency to make these necessary decisions.

Subpart 5. Reapplication.

This subpart requires that project sponsors with applications not awarded grant funds, must reapply in subsequent application periods to be considered for a grant. This is reasonable because it allows the unfunded applicants to revise their project applications and do further work to improve their chances of funding.

PART 7076.0200 PROJECT CONTINUATION GRANT AMENDMENT

Subpart 1. Eligibility.

This subpart establishes that project sponsors who have received a project implementation grant are eligible to request one project continuation grant amendment, which has the same terms and conditions as the initial project implementation grant. This is reasonable because it segments the larger projects into a more manageable scale. This segmenting allows project sponsors to phase their financial commitment to the project and allows the state to assist more projects by committing smaller sums of money for shorter periods of time. The segmenting of the projects also provides the project sponsor and the Agency a good opportunity to review project progress and make necessary mid-course adjustments. The knowledge that a project continuation grant amendment will be available gives the project sponsor assurance that the project will be completed as planned.

Subpart 2. Request.

This subpart establishes that a project sponsor must submit a request for a project continuation grant amendment on forms provided by the Agency, in the year activities funded through the initial project implementation grant will be complete and additional funds will be required to continue the project. If the project sponsor does not request funds in the year funds are required, the project sponsor forfeits the right to a noncompetitive project continuation grant amendment. This is reasonable because it defines the procedure and time frame to request a project continuation grant amendment and establishes a penalty (loss of opportunity) for noncompliance. It is important to the Agency that the requests be prompt so the Agency can manage the program budget. The Agency wants to use the money set aside for a project continuation grant amendment in other ways if the project sponsor is not prepared to continue with implementation of its project.

Subpart 3. Approval.

This subpart establishes that the Agency may approve a request for a project continuation grant amendment if a project sponsor has met the terms and conditions of its current grant and has identified its share of the new request. This is reasonable because it insures that projects that have not been successful are not provided additional funds and that project sponsors who have not been able to generate a local match will not receive additional funds.

PART 7076.0210 GRANT CONDITIONS

Subpart 1. Amount.

This subpart identifies that all grants will be for the amount requested by the applicant, up to half of the eligible project costs. This is reasonable because the Clean Water Partnership Act establishes grants are up to fifty percent of eligible costs. The Agency expects that most applications will be

for fifty percent of the eligible costs but staff is hopeful that some applicants will request a lower percentage. There will be no higher priority given to a project that asks for less than fifty percent.

Subpart 2. Grant period.

This subpart identifies that the grant period for project development will be for a period of two years, the grand period for project implementation will be for a period of three years and may be extended three years with a project continuation grant amendment. This is reasonable because the requirements for project development include a 12-18 month study which should be completed within a two year period. It is also reasonable to limit grants for project implementation to two three year periods, which will provide funds for six years of implementation activities. With the addition of the one year extensions that are available to all projects for completion of project activities through Part 7076.0220 Subp. 3, a project may range up to ten years from start to finish. Projects that take over ten years to complete are either larger than the scale of this program or not making adequate progress toward completion.

Subpart 3. Grant contract.

This subpart requires a grant contract to be executed before any funds are available to the project sponsor. This is reasonable since the contract is the tool that defines the terms and conditions for receipt of the grant funds.

Subpart 4. Records.

This subpart requires the contract to include conditions relating to maintenance of records on receipt and expenditure of funds. This is reasonable because it provides the information necessary to examine and verify the accounts of the project.

Subpart 5. Audit.

This subpart requires the project sponsor to allow the Commissioner or the

Commissioner's delegee to review and examine the projects books, records, documents and accounting procedures. This is reasonable because the Commissioner is responsible for insuring that public funds are being properly used relative to the law, the contract, and the legislative intent.

Subpart 6. Annual progress report.

This subpart requires the project sponsor to complete an annual progress report that identifies progress in relation to schedule, pertinent fundings, current and anticipated expenditures, and a summary analysis of water quality data collected over the year. This is reasonable because it documents activities so the Agency and the project sponsor may review and evaluate project progress and accomplishments. Annual progress reports allow the Agency to: 1) identify areas where the project may need assistance or need to make adjustments in the work plan and schedule, 2) determine which activities are particularly effective and should be tried in other projects, 3) anticipate budget adjustments in the program, 4) receive information and monitoring data to be entered and integrated into the Minnesota Land Management information systems data bases as required by Minn. Stat. section 115.102, and 5) identify the need to withhold project payments necessary to encourage the project sponsor to be incompliance with the terms and conditions of the grant.

Subpart 7. Mid-year update.

This subpart requires the project sponsor to prepare a brief report on progress and delays in meeting the project schedule. This is reasonable because it provides a simple mechanism to keep the Agency informed about project progress. This will serve to alert the Agency if a project needs additional attention and assistance.

Subpart 8. Monitoring plan.

This subpart requires the project sponsor to prepare a monitoring plan,

revise it annually and submit it to the Agency. This is reasonable because the monitoring plan identifies the time, place and parameters to be sampled during the year as well as the laboratory that will be doing the analyses. It is important that the monitoring locations and parameters be reviewed each year to insure the information collected is useful and necessary. It is also important that the Agency technical staff be provided this information to be sure the funds expended result in technically useable information. The development and execution of the monitoring plan are very important to developing a feasible project and measuring the success of the project. The monitoring plan is an important tool to insure public funds are expended efficiently.

Subpart 9. Diagnostic study and implementation plan.

This subpart requires the project sponsor for a project development grant to submit a diagnostic study and implementation plan. This is reasonable because the project development grant is for the completion of a diagnostic study and implementation plan.

Subpart 10. Eligible costs.

This subpart disallows any costs incurred by the projects sponsor after the contract period. This is reasonable because the contract period defines the time frame for grant eligibility. It is not reasonable to allow costs to be eligible beyond the contract period.

PART 7076.0220 GRANT CONTRACT

Subpart 1. Contents.

This subpart requires the grant contract to include terms and conditions of the grant, work requirements, responsibility of project sponsor for cost over runs, and reporting requirements. This is reasonable because the contract provides the agreement for the cooperative relationship between the project sponsor and the Agency for project integrity, timely execution and efficient use of public funds.

Subpart 2. Amendments.

This subpart allows the grant contract to be amended. This is reasonable to allow for changes in the project that result from new or additional information, and for changes in available funds or other factors that will change the project.

Subpart 3. Contract period.

This subpart limits project development contracts to a period of up to two years and project implementation contracts to a period of up to six years. One year extensions may be allowed in either case. Two years for a development contract is reasonable because a diagnostic study and implementation plan will take 12 to 18 months to complete. Two years will provide adequate time, including development of the final report.

It is also reasonable because each project implementation period will be different based on factors of size, seriousness of the problem and the type of efforts necessary to solve the problem and the establishment of a six year contract period allows for the three year project implementation grant and a three year project continuation grant amendment, while setting a goal for projects to be designed for completion. The Agency does not intend for a separate contract when the project continuation grant amendment is awarded. The Agency may allow a one-year extension of either of the grant contracts to allow completion of activities that may have fallen behind schedule.

PART 7076.0230 MONITORING PLAN

Subpart 1. Requirements.

This subpart identifies the requirements of the monitoring plan to include identification and rationale for selection of monitoring sites, monitoring frequency and parameters and identification of the laboratory and their analysis procedures. This is reasonable because it allows the Agency to review the

monitoring program to insure useful data and information will result by describing the time, place and parameters that are monitored, the reasons for monitoring and the laboratory procedures to be used. Water quality data that is improperly gathered or analyzed may be expensive both in terms of time and money. In terms of time, it may be a year before samples could be recollected. In terms of money, a single pesticide analysis may run several hundred dollars. It is reasonable for the Agency to require a monitoring plan to avoid project delays and wasted funds.

Subpart 2. Review.

This subpart requires the Commissioner to approve or identify deficiencies in writing within 45 days and provides the project sponsor 15 days to correct identified deficiencies. This is reasonable because it establishes a time frame for review of monitoring plans by the staff and allows for the project sponsor to revise their monitoring plan.

Subpart 3. Grant payment.

This subpart requires an approved monitoring plan by March 31 each year before a project sponsor will receive additional payments. This is reasonable because it insures the monitoring plan will be revised and approved annually, thus protecting the project from unapproved monitoring activities.

PART 7076.0240 DIAGNOSTIC STUDY

Subpart 1. General requirements.

This subpart identifies the four major parts of a diagnostic study. The four parts are: 1) a description of the water of concern, 2) a description of the project area, 3) an analysis of the data and information to technically identify water quality problems, reasonable goals and objectives and target levels for pollution abatement, and 4) the methods used to complete the study. This is reasonable because the quality of water in a lake, river or aquifer is a

reflection of human activity and natural forces in the land area contributing to them and to be able to identify nonpoint sources of pollution, it is necessary to separate this information into an equation of what is the condition of the waters and what is occurring on the land area. It is then possible to analyze the data and information to identify water quality problems, understand which are natural conditions and which are human induced problems, identify reasonable goals and expectations for protection or improvement, and identify land areas contributing pollution, and identify priority areas for implementation of best management practices which will reduce pollution to achieve goals and objectives.

Subpart 2. Description of water of concern.

This subpart lists the specific requirements related to monitoring the water of concern. This includes a summary of historical uses and changes in uses as a result of pollution, a summary of previous studies and at least one year of current water quality monitoring data. This is reasonable because this subpart provides the technical water quality data to be used in Subpart 4 to identify water quality problems, assess current or human induced conditions against natural conditions, set reasonable goals and expectations and estimate reduction in pollution load to achieve those goals and objectives. This detailed description of the water of concern insures that all water quality problems are identified and environmental interactions understood so that the proposed plan for pollution control is directly associated with water quality protection and improvement. This information is required to insure that projected water quality benefits are attainable and are congruent with past water quality conditions.

The summary of historical uses and changes that have resulted from water quality degradation provides a starting point from which to identify the degree

and extent of pollutant impacts. Previous studies and other historical baseline data provide a description of the existing water quality information known about the water of concern. This information assists in identifying the water quality problems and pollutant sources and in identifying additional information that needs to be collected.

Minnesota's waters are diverse. It is necessary to collect at least one year of monitoring data on water bodies of concern so that current conditions are described and assessed in relation to appropriate best management practices. The monitoring data required represents the minimum information necessary to describe the water quality characteristics necessary to apply predictive models and identify best management practices for pollution abatement.

Subpart 3. Description of project area.

This subpart lists the specific requirements related to describing the land uses and natural conditions and forces in the area hydrologically contributing to the water of concern. This includes date on geology, hydrology, topography, soils, land use, precipitation and natural features of the project area. This is reasonable because this subpart provides the land use and physical condition data to be used in subpart 4 to identify the areas contributing pollution including the separation of natural contributions from human induced contributions, and to identify the priority areas upon which to focus pollution control efforts.

Subpart 4. Analysis and assessment.

This subpart requires the completion of an analysis and assessment of the data and information collected in subparts 2 and 3 to identify water quality problems, reasonable goals and expectations for the resource, and identification of objectives and the pollution reduction necessary to meet the goals and objectives. This is reasonable because the raw data on water quality and the

land area must be analyzed with assessment tools such as models to translate the data into useful information for resource management, in this case abatement of nonpoint sources of pollution.

Subpart 5. Exemption.

This subpart allows the Agency to exempt a project sponsor from a specific diagnostic study requirement that does not provide data or information which is necessary for development of the project. This is reasonable because of the diverse nature of nonpoint problems there may be a case where information required in subparts 1, 2 or 3 is not necessary to meet the requirement of subpart 4. This provides flexibility to the program while insuring technical credibility.

PART 7076.0250 IMPLEMENTATION PLAN

Part 7076.0250 requires the project sponsor complete an implementation plan which includes the identification of best management practices necessary to achieve desired pollutant reduction, an education program for the project area, identification of project participants and their responsibilities to the project, a schedule and budget for implementation, and a project progress and evaluation plan. This is reasonable because these are the activities for which the project implementation grant funds are requested and it is reasonable to require the project sponsor to identify how the funds will be used before they are awarded. It provides the proposed work plan for the project and identifies and describes the combination of best management practices and activities that will be needed to reach the identified goals and objectives.

PART 7076.0260 DIAGNOSTIC STUDY AND IMPLEMENTATION PLAN APPROVAL

Subpart 1. Review and decision.

This subpart requires the Commissioner to review and approve the diagnostic study and implementation plan within 90 days of its receipt. The diagnostic

study and implementation plan shall be approved if it meets the requirements of Minn. Rule pts. 7076.0240 and 7076.0250; the diagnostic study technically defines the problems, sources of pollution and reasonable goals and objectives; the implementation plan provides a technically feasible way to achieve desired goals and objectives, and is consistent with state and federal statutes, rules and regulations. This is reasonable because the Agency must insure the project sponsor met the terms and conditions of the project development grant, that the work is based on sound technical ground, that the implementation plan provides a feasible set of alternatives for pollution control, and to insure any future funds for project implementation are for a project with a reasonable chance for success.

Subpart 2. Reasons for disapproval.

This subpart requires the Commissioner to notify the project sponsor of reasons for disapproval. This is reasonable because it informs the project sponsor the reason for disapproval allowing the project sponsor an opportunity to remedy the problem.

Subpart 3. Resubmittal.

This subpart allows the project sponsor to resubmit a disapproved diagnostic study and implementation plan for review to determine if the deficiencies have been corrected. This is reasonable because it allows the project sponsor an opportunity to make the necessary changes to the document and have an approved diagnostic study and implementation plan which may be submitted as part of a project implementation grant application. Without an approved diagnostic study and implementation plan the project sponsor will not be eligible for a project implementation grant. Therefore, the Agency deems it important to provide the grantee with an opportunity to correct deficiencies.

PART 7076.0270 BEST MANAGEMENT PRACTICES EVALUATION

Part 7076.0270 establishes criteria the project sponsor shall use when evaluating and selecting best management practices for control of nonpoint sources. This is reasonable because the project sponsor must identify best management practices necessary to meet the goals and objectives established in the project and these criteria provide a standard measure for evaluation of best management practices.

PART 7076.0280 GRANT PAYMENTS

Subpart 1. Reimbursement.

This subpart allows the project sponsor to request reimbursement of expenditures for each of the standard calendar quarters ending March 31st, June 30th, September 30th and December 31st. The Agency will pay fifty percent of the eligible expenses as the project progresses. Thus, if the project sponsor incurs expenses of $10,000 in the first quarter, the sponsor can request a grant payment of $5,000. If the grant is for less than fifty percent of the project cost, the Agency will pay the appropriate percentage. The Agency shall reimburse eligible expenditures within 45 days. It is important that the Agency get the grant funds to the local unit of government promptly as the work progresses. Therefore, the Agency has proposed a payment scheme that allows the grantee to be paid every 3 months. In the Agency's view, this gets the money to the grantee before huge debts can mount up and also minimizes the administrative tasks of handling payment requests. More frequent payments would multiply the amount of paper work accordingly.

Subpart 2. Final payment.

This subpart allows the Agency to withhold ten percent of grant, until the project is completed to the Agency's satisfaction. This is reasonable because ten percent is a sufficient amount of funds to encourage completion of a project including a final report.

Subpart 3. Withholding of reimbursement.

This subpart allows the Agency to withhold reimbursement if the project sponsor has failed to comply with the grant contract or the rules. This is reasonable because it provides the Agency with leverage to encourage the project sponsor to honor the terms and conditions of the grant. The Agency intends to use this only when absolutely necessary to bring the project sponsor into compliance with the grant.

Subpart 4. Advance.

This subpart allows the Agency to provide the project sponsor an advance of 10 percent of the grant award to a maximum of $50,000. This is reasonable to assist the project sponsor in getting started without depleting the local funds to a point that the project is on shakey financial grounds. The project sponsor, however, will not qualify for any quarterly payments under subpart 1, until the entire advance has been accounted for in expenditures.

PART 7076.0290 GRANT RESCISSION

Part 7076.0290 allows the Agency to rescind a grant if the project is not being completed in accordance with the terms and conditions of the contract. This is reasonable because it provides the agency a way to close a grant contract that is being seriously abused.

V. CONSIDERATION OF IMPACTS ON EXPENDITURES OF PUBLIC MONIES BY LOCAL PUBLIC BODIES, AGRICULTURAL LAND, AND SMALL BUSINESSES

A. Expenditures of Public Monies by Local Public Bodies (Minn. Stat. section 14.11, Subd. 1)

Participation in the Clean Water Partnership Act by local unit of government is not mandatory. Adoption of the proposed rules will not require the expenditure of public monies by local units of government unless a local unit of government elects to participate in the Clean Water Partnership Program.

B. Agricultural Land (Minn. Stat. section 14.11, Subd. 2)

The proposed rules will not have any direct adverse effects on agricultural lands in the state. In areas where projects are conducted, it will improve agricultural lands because many best management practices have secondary benefits such as improving soil productivity and limiting soil erosion.

C. Small Businesses (Minn. Stat. section 14.115)

The proposed rules will not have any direct adverse effects on small businesses in the state. In most projects, small businesses will benefit from contracts provided by the project sponsor to complete project activities.

VI. CONSIDERATION OF ECONOMIC FACTORS

In exercising its powers, the Agency is required by Minn. Stat. section 116.07, Subd. 6 (1986) to give due consideration to economic factors. The statute provides:

> In exercising all its powers the pollution control agency shall give due consideration to the establishment, maintenance, operation and expansion of business, commerce, trade, industry, traffic, and other economic factors and other material matters affecting the feasibility and practicability of any proposed action, including, but not limited to, the burden on a municipality of any tax which may result therefrom, and shall take or provide for such action as may be reasonable, feasible, and practical under the circumstances.

In proposing the rules governing the Clean Water Partnership Program, the Agency has given due consideration to available information regarding economic impacts the proposed rules would have. Available information suggests the proposed rules will have significant public benefits. The benefits of water quality protection and improvement are diverse and often hard to measure because the benefits often spread across more than a single generation. It is clear that protection of drinking water as a use is a significant benefit. Water quality is directly related to recreation and tourism, two major sectors of the Minnesota economy. A program similar to that proposed by these rules is the federal Clean Lakes Program. The Clean Lakes Program has identified benefits of

residential and industrial development, increases of employment and income and increased property values as well as increased recreational opportunities. In general, there is the potential for significant local, regional and state economic benefit as the result of the proposed rules.

VII. CONCLUSION

Based on the foregoing, the proposed Minn. Rules pts. 7076.0100 through 7076.0290 are both needed and reasonable.

Dated: April 18, 1988

for Barbara Lyndon Sims
Gerald L. Willet
Commissioner

Exhibit List

1. Minnesota Pollution Control Agency. 1986. Minnesota Water Quality: Water Years 1984-1985. The 1986 Report to the Congress of the United States. Minnesota Pollution Control Agency Division of Water Quality. 69 pages.

2. Minnesota Pollution Control Agency. 1986. Nonpoint Source Pollution Issues Team Report, Presented to the Energy, Environment, and Natural Resources Subcabinet through the Executive Branch Policy Development Program 1986-1987. 103 pages.

3. Laws of Minnesota 1987, Chapter 392 - Clean Water Partnership Act.

4. Minnesota Pollution Control Agency. 1986. A Statewide Assessment of Nonpoint Source Pollution.

5. USEPA. Maximum Contaminant Levels.

6. Minnesota Department of Health. Recommended Allowable Limits for Drinking Water.

7. Minnesota Pollution Control Agency. Water Quality Standards Minn. Rule 7050.

8. Minnesota Pollution Control Agency. 1988. Minnesota Lake Water Quality Assessment Report.

9. Minnesota Pollution Control Agency. 1988. Descriptive Characteristics of the Seven Ecoregions in Minnesota.

Minnesota Pollution Control Agency

July 28, 1988

Ms. Christie Eller
Assistant Attorney General
Office of the Attorney General
515 Transportation Building
St. Paul, Minnesota 55155

Dear Ms. Eller:

Re: In the Matter of Proposed Rules Governing the Clean Water Partnership Program
Minn. Rules Parts 7076.0100 to 7076.0290

On June 28, 1988, the Minnesota Pollution Control Agency (MPCA) adopted the above-captioned rules governing the Clean Water Partnership Program. Enclosed for your review are the following:

1. Rules as adopted (original and three copies).

2. Findings of Fact, Conclusions and Order Adopting Rules (two copies).

3. Certificate of Resolution Adopting Rules.

4. Notice of Intent to Solicit Outside Opinion (12 S.R. 469, September 14, 1987).

5. Copies of written comments received pursuant to Notice of Intent to Solicit Outside Opinion.

6. Certificate of Authorizing Resolution.

7. Notice of Intent to Adopt Rules Without a Public Hearing and rules as proposed (12 S.R. 2296, Monday, April 18, 1988).

8. Comments received during the comment period.

9. Notice of Intent to Adopt Rules Without a Public Hearing, as mailed.

10. Affidavit of Mailing the Notice of Intent to Adopt Rule Without a Public Hearing and Certificate of Mailing List.

Phone:_____
520 Lafayette Road, St. Paul, Minnesota 55155
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11. Rules as proposed.

12. Statement of Need and Reasonableness.

13. Declaration of Counsel.

The Agency did not receive any requests to be notified when the rule was submitted to the Attorney General's Office, so no Notice of Submission has been prepared and no Affidavit of Mailing for such notice is required.

If there is anything further you require, please call Gaylen Reetz of my staff at 296-8834. Thank you very much.

Sincerely,

for Timothy K. Scherkenbach
Director
Division of Water Quality

TKS:nmf

9-21-87

Mr Gaylen Reetz
Minn Pollution Control Ag

Please forward me a copy of the rule relating to the Partnership Program as addressed in the State Register 14 Sept 87 Volume 12 No. 11

Thanks

E Pessenda Jr

E. & J. PESSENDA, INC.
Kaposak's Bar
20[illegible] St.
Chisholm, [illegible] 719

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SEP 24 1987
M. P. C. A.
Water Quality Div

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M.P.C.A.
Water Quality Div.

RULES ADOPTION
CLEAN WATER PARTNERSHIP PROGRAM

OPINION

Dr. Richard R. Anderson
Rt. 8 Box 600
St. Cloud, MN 56301

I would like to comment on two aspects of this very important program; requirements for diagnostic studies; and ranking of proposed projects for assistance.

A. DIAGNOSTIC STUDIES.

There does appear to be a need to understand the contribution of diffuse source loading from various land use categories. All categories whether natural or human constructed contribute materials to contiguous waters. The quantity of each category within a drainage basin often is critical to arriving at decisions for Best Manage Practices to ensure good water quality.

Land use information that is needed within a drainage basin include:

1. Categories of use, both natural and human related including industrial, residential, roads, forested, old fields, crop types, swamps and marshes, etc..

2. The quantity of each in a drainage basin.

3. Rate of change of categories.

4. Contributions of nutrient, particulate, bacterial, herbicide, etc. from each category adjusted to an average area-yield loading to contiguous waters.

5. Topographic and geologic variations which affect contribution.

To minmize the cost of data collection, aerial photo - graphs could be used to obtain much of the information. The resources within a local unit such as conservation groups, students and local universities, could be mobilized under the aegis of a coordinator to systematically sample waters within a drainage basin.

B. RANKING PROJECTS FOR ASSISTANCE:

Since local water management plans will not be completed for a number of years, those projects which aid in development of the plan should be highly ranked. A piecemeal "brushfire" approach without a regional understanding of causative factors would be a poor utilization of scarce funds. Integrated watershed approaches should be favored.

Within the rules governing the Clean Water Partnership Program the following may be appropriate:

A. Diagnostic studies.

1. Drainage basin studies.

a. Diffuse source loadings from various categories of land use, including the largest contributors.

b. Best Management Practices which are suitable for controlling non-point sources.

c. Incorporation into a local water management plan.

2. Cost effective methods for conducting drainage basin diffuse loading surveys.

a. Vegetative indicators of nutrient pollution.

b. Accuracy of aerial photographic analysis of land use categories and non-point sources of pollution.

B. Ranking of projects based on watershed approach, involvement of local unit resources, cost-benefit, and fit to local water management plan.

Richard P. Anderson

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rules
Governing the Clean Water Partnership Program
Minn. Rules Parts 7076.0100 to 7076.0290

DECLARATION OF COUNSEL

I, Alan R. Mitchell, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rules and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure Act and Minnesota Rules ch. 2010 have been followed. For Attorney General billing purposes, the four-digit docket client code is F589.

Alan R. Mitchell

Alan R. Mitchell
Special Assistant
Attorney General

Dated: July 28, 1988

STATE OF MINNESOTA

POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rules Governing the Clean Water Partnership Program, Minnesota Rules Parts 7076.0100 to 7076.0290

CERTIFICATE OF MAILING LIST

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

I hereby certify that the list of persons and associations who have requested, pursuant to Minnesota State §§ 14.14, subd. 1a and 14.22 (1986) that their names be placed on the Minnesota Pollution Control Agency's rulemaking mailing list is accurate, complete, and current as of this 14th day of April, 1988.

LaReine Bengston

LaReine L. Bengston
Public Information Office
Minnesota Pollution Control Agency

Subscribed and sworn to before me this 14 day of April, 1988.

Cynthia B. Gillingham
Notary Public

CYNTHIA B. GILL...
NOTARY PUBLIC - M...
HENNEPIN COU...
My commission expires 1...

ALBERT BERGLUND
83 HICKORY LANE
LINCOLNSHIRE IL 60015 WQ

CENEX
AL BALDUS
BOX 64089
ST PAUL MN 55164 WQ

CENEX/LAND'LAKES
ATTN RALPH SCHLETTY
BOX 64089
ST PAUL MN 55164 WQ

DONALD B CRASSWELLER
LAW OFFICES
1000 ALWORTH BLDG
DULUTH MN 55802 WQ

DETOX INC
DIANE WHIPPLE
P O BOX 324
DAYTON OH 45459 WQ

FRIENDS OF THE BOUNDARY
WATER WILDERNESS
KEVIN PROESCHOLDT
1313 5TH ST SE #327
MPLS MN 55414 WQ

HAMLINE LAW SCHOOL
MARILYNNE ROBERTS
1536 HEWITT AVENUE
ST PAUL MN 55104 WQ

MR ROBERT G HENGELFELT
201 PARK SQUARE COURT
400 SIBLEY STREET
ST PAUL MN 55101-1969 WQ

IBBERSON ENG INC
ATTN GERALD M LEUKAM
3424 WOODDALE AVE
MPLS MN 55416 WQ

JEROME FOODS
ATTN GEORGE RAAB
1116 NW 4TH AVENUE
FARIBAULT MN 55021 WQ

JONES HAUGH & SMITH INC
515 S WASHINGTON
ALBERT LEA MN 56007 WQ

LAKE MINNETONKA CONS DIST
402 E LAKE STREET
WAYZATA MN 55391 WQ

LEGGETTE BRASHEARS &
GRAHAM INC NORTHPARK
CORPORATE CENTER SUITE A1211
1210 W COUNTY ROAD E
ST PAUL MN 55112 WQ

BARBARA LIUKKONEN
WATER RESOURCES AGENT
CAMPTON CENTER
SILVER BAY MN 55614 WQ

MAYO CLINIC FOUNDATION
DAVID N FASS
HEMATOLOGY RESEARCH
ROCHESTER MN 55905 WQ

METROPOLITAN COUNCIL
ATTN JAY M HEFFERN
300 METRO SQUARE BLDG
7TH STREET & ROBERT STREET
ST PAUL MN 55101 WQ

RAMSEY CO ENVIR HEALTH
ATTN RICHARD D RAGAN
1910 W COUNTY RD B
ROSEVILLE MN 55113 WQ

SHARLLA REGEHR
RR1 BOX 419
STEWARTVILLE MN 55976 WQ

ST LOUIS CO HEALTH DEPT
BOB HOLMES
1001 E FIRST STREET
DULUTH MN 55805 WQ

EDWIN E STERLING
3920 39TH AVENUE S
MPLS MN 55406 WQ

WATER & SOIL RESOURCES
BOARD
90 W PLATO BLVD
FIRST FLOOR
ST PAUL MN 55107 WQ

DEPT OF AGRICULTURE
AGRONOMY SERVICES
ATTN GARY BRAUN
90 W PLATO BLVD
ST PAUL MN 55107 IO

BRD OF ARCH ENG LAND SURV
AND LANDSCAPE ARCHITECTURE
ATTN LOWELL E TORSETH
402 METRO SQUARE
ST PAUL MN 55101 IO

ATTORNEY GENERAL'S OFFICE
ANTITRUST DIVISION
2ND FLOOR FORD BLDG
117 UNIVERSITY AVE
ST PAUL MN 55155 IO

DEPT OF EDUCATION
ATTN FLOYD ERICKSON
936 CAPITOL SQ BLDG
ST PAUL MN 55101 IO

DEPT OF TRADE & ECON DVLPMT
ATTN ABBY MCKENZIE
900 AMERICAN CENTER BLDG
150 E KELLOGG BLVD
ST PAUL MN 55101 IO

MN DEPT OF HEALTH
ATTN PAT BLOOMGREN
717 DELAWARE ST SE
P O BOX 9441
MPLS MN 55440 IO

LEGISLATIVE COMM ON
WASTE MANAGEMENT
ATTN KIM AUSTRIAN
ROOM 85 STATE OFFICE BLDG IO

LEGISLATIVE COMM TO
REVIEW ADMIN RULES
ATTN MARYANNE V HRUBY
ROOM 55
STATE OFFICE BLDG IO

MEEB CENTRAL OFFICE
ATTN DIRECTOR
BOX 5 500 LAFAYETTE RD
ST PAUL MN 55155-4005 IO

MN DOT DIRECTOR, ENV SERV
704 TRANSPORTATION BLDG
JOHN IRELAND BLVD
ST PAUL MN 55155 IO

MN SMALL BUSINESS ASSISTANCE
OFFICE CHARLES SCHAFFER
900 AMERICAN CENTER BLDG
150 E KELLOGG BLVD
ST PAUL MN 55101 IO

MWCC
ATTN HELEN BOYER
350 METRO SQUARE BLDG
ST PAUL MN 55101 IO

STATE PLANNING AGENCY
ATTN JACK DITMORE
ENV DIV 100 CAPITOL SQ BLDG
550 CEDAR ST
ST PAUL MN 55101 IO

PRESS/MN GOVT REPORT
ATTN JEAN DAWSON
RM B12 CAPITOL BLDG
ST PAUL MN 55155 IO

SENATE COUNCIL OFFICE
ATTN MARK J HANSON
RM 480
STATE OFFICE BLDG
ST PAUL MN 55155 IO

SENATOR STUMPF'S OFFICE
ATTN STEPHANIE SCHWARTZ
ROOM 306
STATE CAPITOL
ST PAUL MN 55155 IO

MPCA HEARING NOTIFICATION MAILING LIST INTER OFFICE

SHELDAHL
ATTN DAVID MILLER
N HWY 3
NORTHFIELD MN 55057 5

SHELL ENGINEERING & ASSOC
P O BOX 548
STAIRCASE OFFICE #8
PARKADE PLAZA
COLUMBIA MO 65205 5

ST PAUL FIRE DEPT
RUSS POLANSKY
100 E ELEVENTH ST
ST PAUL MN 55101 5

STAR TRIBUNE NEWSROOM
ATTN DEAN REBUFFONI
425 PORTLAND AVE
MPLS MN 55488 5

STATE REGULATION REPORT
BRUCE DETLEFSEN
951 PERSHING DRIVE
SILVER SPRINGS MD 20910 5

STEARNS COUNTY ZONING ADM
JACK WIMMER
BOX 604
ST CLOUD MN 56302 5

STS CONSULTANTS LTD
ROSS L OHMAN PROJ MGR
3650 ANNAPOLIS LANE
PLYMOUTH MN 55447 5

TENNECO INC
L W PATTERSON
P O BOX 2511
HOUSTON TX 77252 5

THERMO-KING
JULIE OSTROW CORP LIB
314 W 90TH STREET
MPLS MN 55420 5

U OF M
ROBERT SNYDER
248 CLASSROOM OFFICE BLDG
1994 BUFORD AVE
ST PAUL MN 55108 5

U OF M PHYSICAL PLANT DEPT
ROBERT SILVAGNI
200 SHOPS BLDG
319 15TH AVE SE
MPLS MN 55455 5

UNITED POWER ASSOC
ENV & LAND DIV
DAN MCCONNON
17845 E HWY 10
ELK RIVER MN 55330-0800 5

UNITED POWER ASSOC
REYNOLD S RAHKO
PROJECTS COORD DIV
ELK RIVER MN 55330 5

VAN HOVEN CO INC
ATTN ED VAN HOVEN JR
BOX 56
SO ST PAUL MN 55075 5

KENT VAN METER
ENVIRONMENTAL SAFETY
ST PAUL PUBLIC SCHOOLS
360 COLBORNE STREET
ST PAUL MN 55102 5

WASH CO PUBLIC HEALTH
TOM DELLENBACH
P O BOX 6
STILLWATER MN 55082 5

WASH CO PUBLIC HEALTH
ZACK HANSEN
14900 N 61ST STREET
P O BOX 6
STILLWATER MN 55082 5

WASH CO BRD OF COMM
SALLY EVERT
14900 61ST STREET N
STILLWATER MN 55082 5

WESTINGHOUSE ELECTRIC CORP
WALTER R NORKUS
10 S RIVERSIDE PLAZE
CHICAGO IL 60606 5

CITY OF WINONA
ROBERT J BOLLANT
4TH & LAFAYETTE ST
WINONA MN 55987 5

NEWS EDITOR
WINONA DAILY NEWS
BOX 147
WINONA MN 55987 5

WINTHROP & WEINSTINE
1800 MERITOR TOWER
444 CEDAR STREET
ST PAUL MN 55101 5

PROF MARCIA GELPE
875 SUMMIT AVE
ST PAUL MN 55102 5

DANIEL D FOLEY MD
161 MCBOAL STREET
ST PAUL MN 55102 5

JANET C GREEN
10550 OLD N SHORE RD
DULUTH MN 55804 5

VAN R ELLIG
106 E WASHINGTON AVE
P O BOX E
FERGUS FALLS MN 56537 5

KEITH H LANGMO
618 WEST CRESCENT LANE
LITCHFIELD MN 55355 5

ARNOLD ONSTAD
204 SECOND STREET SE
SPRING GROVE MN 55974 5

RUTH ERICSON
80 EDISON BLVD
SILVER BAY MN 55614 5

MILTON RADJENOVICH
P O BOX 667
604 JONES AVENUE
BUHL MN 55713 5

RUSSELL W DOMINO
23 WEST ROAD
CIRCLE PINES MN 55014 5

MN ASPHALT PAVEMENT ASSN
KENNETH G PAULSON P E
SUITE 136
155 S WABASHA STREET
ST PAUL MN 55107 4

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MN RETAIL MERCHANTS ASSOC
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180 METRO SQUARE BLDG
ST PAUL MN 55101 4

MOBIL OIL CORP
ATTN PETE GATES 4N508
3225 GALLOWS ROAD
FAIRFAX VA 22037 4

MOSS & BARNETT LAW OFFICES
MICHAEL J AHERN
1200 PILLSBURY CTR
200 S 6TH STREET
MPLS MN 55402 4

MPIRG
ATTN MICHAEL LEE
2512 DELAWARE ST SE
MPLS MN 55414 4

MWCC
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350 METRO SQUARE BLDG
ST PAUL MN 55101 4

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ATTN WILLIAM H PROKOP
2250 EAST DEVON AVE
DES PLAINES IL 60018 4

NAT'L SOLID WASTE MGMT ASSN
MARY AYDE
525 PARK STREET #120
ST PAUL MN 55103 4

NCASI REID MINER
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1519A EAST FRANKLIN AVE
MPLS MN 55404 4

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1678 RED ROCK RD
P O BOX 64189
ST PAUL MN 55119 4

NSP LAW DEPT
JOSEPH D BIZZANO JR
414 NICOLLET MALL
MPLS MN 55401 4

OFFICE OF ADMIN HEAR CO
ATTN SAM RUHLE
500 FLOUR EXCHANGE
310 S 4TH AVENUE
MPLS MN 55415 4

OGLEBAY NORTON CO
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CLEVELAND OHIO 44101 4

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SUITE 811-200 W SUPERIOR ST
DULUTH MN 55802 4

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SUITE 811-200 W SUPERIOR ST
DULUTH MN 55802 4

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MS 3726 PILLSBURY CTR
MPLS MN 55402 4

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ROBERT S BURK
3300 PIPER JAFFRAY TOWER
222 S 9TH STREET
MPLS MN 55402 4

POPHAM HAIK LAW FIRM
ATTN G ROBERT JOHNSON
3300 PIPER JAFFRAY TOWER
222 S 9TH STREET
MPLS MN 55402 4

POPHAM HAIK LAW FIRM
ATTN LA RAYE OSBORNE
3300 PIPER JAFFRAY TOWER
222 S 9TH STREET
MPLS MN 55402 4

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BOX 510
CLOQUET MN 55720 4

PRECISION ENV SERV
ATTN JOHN GLEASON
8009 RANCHERS ROAD NE
FRIDLEY MN 55432 4

PROJECT ENV FNDTN
GAYL PETERSON
1313 5TH ST SE
SUITE 323
MPLS MN 55414-1524 4

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P O BOX 15
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RICE COUNTY PLANNING OFF
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P O BOX 40
FARIBAULT MN 55021 4

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800 WASHINGTON AVE SE
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HANFT ETC LAW OFFICE
G W HARRIES
1000 FIRST BANK PLACE
130 W SUPERIOR STREET
DULUTH MN 55802-2094 3

HARDRIVES INC
7200 HEMLOCK LANE N
MPLS MN 55369 3

ELLSWORTH HARPOLE
727 15TH AVE SE #30
MPLS MN 55414 3

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PATRICIA LEONARD-MAYER
1036 NORWEST MIDLAND BLDG
MPLS MN 55401 3

J WILLIAM HAUN P E
TCF TOWER SUITE 1335
121 S EIGHTH STREET
MPLS MN 55402 3

HENNEPIN PARKS
DAVID K WEAVER
12615 COUNTY RD 9
PLYMOUTH MN 55441 3

HESSIAN MCKASY & SODERBERG
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4700 IDS CENTER
MPLS MN 55402 3

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5945 MAPLEWOOD LANE
MINNETONKA MN 55345 3

INTERN MINERAL & CHEM CORP
ENVIR & SAFETY OPERATIONS
421 E HAWLEY STREET
MUNDELEIN IL 60060 3

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& EVALUATION
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21098 IRE/CONTROL CENTER
EAGAN MN 55121 3

INTERSTATE POWER CO
EARL FORSLUND
P O BOX 769
DUBUAUE IA 52004-0769 3

THE IZAAK WALTON LEAGUE
OF AMERICA MN DIV
525 PARK STREET #101
ST PAUL MN 55103 3

L L K O D LAW OFFICES
ATTN JOHN E DRAWZ
2000 FIRST NAT BANK PL W
MINNEAPOLIS MN 55402 3

LAKE SUPERIOR
INDUSTRIAL BUREAU
1408 ALWORTH BLDG
DULUTH MN 55802 3

LAND O'LAKES
ATTN JAMES A BOSCH
P O BOX 116
MPLS MN 55440 3

LEAGUE OF MINNESOTA CITIES
ATTN JOEL JOMNIK
183 UNIVERSITY AVE E
ST PAUL MN 55101 3

TOM LEHMAN
SUITE #322
HALL OF THE STATES
400 N CAPITOL ST NW
WASHINGTON DC 20001 3

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V8V1X4 CANADA 3

BRUCE A LIESCH ASSOC
LISA KALODRICH
3020 HARBOR LANE
PLYMOUTH MN 55447 3

ROBERT LOCKYEAR
PLANNING COORDINATOR
14900 61ST STREET N
STILLWATER MN 55082 3

RACHEL LORD
2323 TALMAGE AVE SE
MPLS MN 55414 3

MEDICAL DISPOSAL SYSTEMS
ATTN JOHN R MEYERS
206 N RIVER RIDGE CIRCLE
MPLS MN 55337 3

MINNEGASCO
MIGGIE CRAMBLIT SR ATTY
LEGAL DIVISION
201 S 7TH STREET
MPLS MN 55402 3

MINNEGASCO
KAREN LAMPERT
700 W LINDEN AVE
P O BOX 1165
MPLS MN 55440-1165 3

THE MINNESOTA PROJECT
2222 ELM STREET SE
MPLS MN 55414 3

MN AGRI GROWTH COUNCIL
8030 CEDAR AVE S
SUITE 213
BLOOMINGTON MN 55425 3

CITIZENS FOR BETTER ENVIR
SUITE #201
1515 E LAKE ST
MPLS MN 55407 2

CLEVELAND-CLIFFS INC
ATTN P D BRICK
1100 SUPERIOR AVE
CLEVELAND OH 44114 2

COLOR-AD PACKAGING INC
ATTN MICHAEL S KECKEISEN
3600 ALABAMA AVE
MPLS MN 55416 2

COMM HEALTH SERV BRD
ATTN MICHAEL J DUFFY DIR
325 LAKE AVE S SUITE 604
DULUTH MN 55802 2

COOPERATIVE POWER ASSOC
ATTN SCOTT SCHULER
14615 LONE OAK ROAD
EDEN PRAIRIE MN 55344 2

CORNELIUS CO
JERRY DIRKS
1 CORNELIUS PLACE
HIGHWAY 10 W
ANOKA MN 55303 2

D H G & G ATTYS AT LAW
ATTN JOHN HERMAN
TEN SOUTH FIFTH ST
SUITE 930
MPLS MN 55401 2

DAKOTA COUNTY ATTORNEY
JAMES C BACKSTROM
1560 HIGHWAY 55
HASTINGS MN 55033 2

DAKOTA COUNTY ENV'L
HEALTH RON SPONG
SUITE 345
33 E WENTWORTH
WEST ST PAUL MN 55118 2

DAMES & MOORE
ATTN LAWRENCE ANNEN
SUITE 101
1846 HOFFMAN
MADISON WI 53704 2

DAVID BRASLAU ASSOC
1313 5TH ST S E #322
MPLS MN 55414 2

DEWITT SUNDBY HUGGETT
SCHUMACHER & MORGAN
JEANNE STEBBINS LEG ASST
6515 GRAND TETON PLAZA #120
MADISON WI 53719 2

DNR/MEEB
CAROL LANGER
1201 E HIGHWAY #2
GRAND RAPIDS MN 55744 2

DONOHUE & ASSOC INC
CONSULTING ENGINEERS DIV
SUITE 200
7200 HEMLOCK LANE N
MAPLE GROVE MN 55369 2

DORSEY & WHITNEY
GREGG FONTAINE
2200 FIRST BANK PLACE E
MPLS MN 55402 2

DORSEY & WHITNEY
ATTN MARK KASTOR
2200 FIRST BANK PLACE E
MPLS MN 55402 2

DORSEY & WHITNEY
ATTN BILL KEPPEL
2200 FIRST BANK PLACE E
MPLS MN 55402 2

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MGR GOV & ENV AFFAIRS
500 MISSABE BLDG
DULUTH MN 55802 2

E I DU PONT DE NEMOURS CO
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LEGAL DEPT
1007 MARKET STREET
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ECRDC
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MORA MN 55051 2

ENVIR ENG & POLLUTION
CONTROL/3M 21-2W-06
DAVID M BENFORADO P E
900 BUSH AVE
ST PAUL MN 55144 2

EPA REGION V
OFFICE OF PUBLIC AFFAIRS
230 S DEARBORN ST
CHICAGO IL 60604 2

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DAVE ULLRICH 5C-TUB-3
230 S DEARBORN ST
CHICAGO IL 60604 2

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101 S MAIN
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MPLS MN 55059-9943 2

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SUITE 515
1500 WILSON BLVD
ARLINGTON VA 22209 1

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MGR ENV CONTR
101 N THIRD ST
MOORHEAD MN 56560 1

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OAK BROOK IL 60522-3548 1

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ONE BUSCH PLACE 202-4
ST LOUIS MO 63118-1852 1

ANHEUSER-BUSCH CO INC
ROBERT A WACHTER ENV ENG
ONE BUSCH PLACE 202-4
ST LOUIS MO 63118-1852 1

ANOKA CO COMM HEALTH &
SOC SERV DEPT LOIS HACKER
COURTHOUSE 4TH FL
325 E MAIN STREET
ANOKA MN 55303 1

ANOKA COUNTY HEALTH DEPT
ATTN ROBERT HUTCHISON
COURTHOUSE 4TH FLOOR
ANOKA MN 55303 1

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OMAHA NE 68102-1679 1

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ST PAUL PARK MN 55071 1

ASHLAND PETROLEUM CO
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P O BOX 391
ASHLAND KY 41114 1

ASSN OF MN COUNTIES
SUITE 404
525 PARK STREET
ST PAUL MN 55103 1

MARY AYDE
1201 N BIRCH LAKE BLVD
WHITE BEAR LAKE MN 55110 1

BADGER SAFE ENERGY ALLI
BOX 239
ELLSWORTH WI 54011 1

BARR ENGINEERING CO
DALE WIKRE
803 GLENROY RD
SUITE 100
MPLS MN 55435 1

BRUCE E BENSON
ZONING OFFICER
COURTHOUSE
P O BOX 220
CARLTON MN 55718 1

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SUITE 1240
TOWER 600 RENCEN
DETROIT MI 48243 1

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6800 S COUNTY RD 18
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SUITE 1510
BLOOMINGTON MN 55437 1

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1729 HAGUE AVENUE
ST PAUL MN 55104 1

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P O BOX 29136
OVERLAND PARK KS 66201-9136 1

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EDEN PRAIRIE MN 55346 1

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V P ENV AFFAIRS
ONE CHAMPION PLAZA
STAMFORD CN 06921 1

CHEMLAWN SERVICES CORP
ROBERT L ROBERTS
8275 NORTH HIGH ST
COLUMBUS OH 43085 1

CITIZENS FOR A BETTER ENV
ATTN SUSAN MUDD
647 W VIRGINIA ST
SUITE 303
MILWAUKEE WI 53204 1

State of Minnesota

STATE REGISTER

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STATE REGISTER

Judicial Notice Shall Be Taken of Material Published in the *State Register*

The *State Register* is the official publication of the State of Minnesota, containing executive orders of the governor, proposed and adopted rules of state agencies, official notices to the public, state and non-state public contracts, grants, supreme court and tax court decisions, and a monthly calendar of cases to be heard by the state supreme court.

Volume 12 Printing Schedule and Submission Deadlines

Vol. 12 Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices	Issue Date
42	Monday 4 April	Monday 11 April	Monday 18 April
43	Monday 11 April	Monday 18 April	Monday 25 April
44	Monday 18 April	Monday 25 April	Monday 2 May
45	Monday 25 April	Monday 2 May	Monday 9 May

*Deadline extensions may be possible at the editor's discretion; however, none will be made beyond the second Wednesday (12 calendar days) preceding the issue date for rules, proposed rules and executive orders, or beyond the Wednesday (5 calendar days) preceding the issue date for official notices. Requests for deadline extensions should be made only in valid emergency situations.

**Notices of public hearings on proposed rules and notices of intent to adopt rules without a public hearing are published in the Proposed Rules section and must be submitted two weeks prior to the issue date.

Instructions for submission of documents may be obtained from the State Register editorial offices, 504 Rice Street, St. Paul, Minnesota 55103, (612) 296-4273.

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Sandra J. Hale, Commissioner
Department of Administration

Stephen A. Ordahl, Director
Minnesota Documents Division

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Paul Hoffman, Assistant Editor

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Bonita Karels, Staff Assistant

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Contact: Senate Public Information Office
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Contact: House Information Office
Room 175 State Office Building, St. Paul, MN 55155
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NOTICE: How to Follow State Agency Rulemaking in the *State Register*

The ***State Register*** is the official source, and only complete listing, for all state agency rulemaking in its various stages. State agencies are required to publish notice of their rulemaking action in the ***State Register.*** Published every Monday, the ***State Register*** makes it easy to follow and participate in the important rulemaking process. Approximately 75 state agencies have the authority to issue rules. Each agency is assigned specific ***Minnesota Rule*** chapter numbers. Every odd-numbered year the ***Minnesota Rules*** are published. This is a ten-volume bound collection of all adopted rules in effect at the time. Supplements are published to update this set of rules. Proposed and adopted emergency rules do not appear in this set because of their short-term nature, but are published in the ***State Register.***

If an agency seeks outside opinion before issuing new rules or rule amendments, it must publish a NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION in the ***Official Notices*** section of the ***State Register.*** When rules are first drafted, state agencies publish them as **Proposed Rules,** along with a notice of hearing, or notice of intent to adopt rules without a hearing in the case of noncontroversial rules. This notice asks for comment on the rules as proposed. Proposed emergency rules and withdrawn proposed rules are also published in the ***State Register.*** After proposed rules have gone through the comment period, and have been rewritten into their final form, they again appear in the ***State Register*** as **Adopted Rules.** These final adopted rules are not printed in their entirety in the ***State Register,*** only the changes made since their publication as **Proposed Rules.** To see the full rule, as adopted and in effect, a person simply needs two issues of the ***State Register,*** the issue the rule appeared in as proposed, and later as adopted. For a more detailed description of the rulemaking process, see the ***Minnesota Guidebook to State Agency Services.***

The ***State Register*** features partial and cumulative listings of rules in this section on the following schedule: issues 1-13 inclusive; issues 14-25 inclusive; issue 26, cumulative for issues 1-26; issues 27-38 inclusive; issue 39, cumulative for 1-39; issues 40-51 inclusive; and issue 52, cumulative for 1-52. An annual subject matter index for rules appears in August. For copies of the ***State Register,*** a subscription, the annual index, the ***Minnesota Rules*** or the ***Minnesota Guidebook to State Agency Services,*** contact the Minnesota Documents Division, 117 University Avenue, St. Paul, MN 55155 (612) 297-3000 or toll-free in Minnesota 1-800-652-9747 and ask for "Documents."

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Proposed Rules

Pursuant to Minn. Stat. of 1982, §§ 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless 25 or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules; and
4. that the rule may be modified if the modifications are supported by the data and views submitted.

If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Pursuant to Minn. Stat. §§ 14.29 and 14.30, agencies may propose emergency rules under certain circumstances. Proposed emergency rules are published in the *State Register* and, for at least 25 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Agriculture

Proposed Permanent Rules Relating to Pesticide Chemigation Safety

Notice of Intent to Adopt a Rule Without a Public Hearing

Notice is hereby given that the Minnesota Department of Agriculture intends to adopt the above-entitled rule without a public hearing, following the procedures set forth in the Administrative Procedures Act for adopting rules without a public hearing in *Minnesota Statutes,* Sections 14.22-14.28. The statutory authority to adopt this rule is *Minnesota Statutes,* Section 18B.08.

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state their name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any proposed change. If a public hearing is required, the department will proceed according to *Minnesota Statutes,* Sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to: Carol Milligan, Minnesota Department of Agriculture, 90 West Plato Boulevard, St. Paul, MN 55107, (612) 296-6906.

The proposed rule may be modified if the modifications are supported by the data and views submitted to the department and do not result in a substantial change in the proposed rule as noticed.

A copy of the proposed rule is attached to this Notice.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available upon request from Ms. Milligan.

The proposed rule applies to and would have an impact on farms that chemigate and are small businesses as defined by *Minnesota Statutes* section 14.115. The proposed rule is necessary to ensure groundwater protection during chemigation and must apply to large or small businesses.

If no hearing is required, upon adoption of the final rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule must submit a written request to Ms. Milligan.

Dated: 23 February 1988

Jim Nichols, Commissioner
Department of Agriculture

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Rules as Proposed (all new material)

1505.2000 DEFINITIONS.

Subpart 1. **Scope.** The definitions in this part and Minnesota Statutes, section 18B.01 apply to parts 1505.2000 to 1505.2070.

Subp. 2. **Anti-pollution device.** "Anti-pollution device" means mechanical equipment used to reduce the hazard to the environment because of chemigation and includes, but is not limited to, interlock, check valve, flow interrupter, vacuum relief device, automatic low pressure drain, and reduced pressure zone backflow preventer.

Subp. 3. **Automatic low pressure drain valve.** "Automatic low pressure drain valve" means a self-activating device effectively designed and constructed to drain that portion of an irrigation pipeline or conduit whose contents could potentially enter the water supply when operation of the irrigation system pumping plant fails or is shut down.

Subp. 4. **Calibration device.** "Calibration device" means equipment designed to determine the rate of chemical injection into the irrigation system.

Subp. 5. **Check valve.** "Check valve" means a device effectively designed and constructed to provide a positive (absolute) closure of an irrigation pipeline or conduit or pesticide injection line that effectively prohibits the flow of material or liquid in the opposite direction from that desired when operation of the irrigation system pumping plant or pesticide injection unit fails or is shut down.

Subp. 6. **Chemigation.** "Chemigation" means the process of applying pesticides to land or crops including, but not limited to, agricultural, nursery, turf, golf course, or greenhouse sites in or with irrigation water obtained from any source of ground or surface water during the irrigation process.

Subp. 7. **Chemigation system.** "Chemigation system" means a device or combination of devices having a hose, pipe, or other conduit that connects directly to a source of ground or surface water, through which a mixture of water and pesticides are drawn and applied to land, crops, or plants. The term does not include a hand-held, hose-end sprayer or other similar device that is constructed so that an interruption of water flow automatically prevents or precludes backflow to the water source.

Subp. 8. **Flow interrupter.** "Flow interrupter" means a device effectively designed and constructed to provide positive (absolute) interruption or secession of material or liquid flow in either direction upon pesticide injection unit shutdown or failure.

Subp. 9. **Injection unit.** "Injection unit" means a chemical metering pump or device that withdraws the pesticide from a supply tank and injects the pesticide into the irrigation system during a chemigation operation and that is effectively designed and built of materials that are compatible with the pesticide and capable of being interlocked with the irrigation system.

Subp. 10. **Interlock.** "Interlock" means the arrangement or interconnection of irrigation pumps and pesticide injection units, other pumps, or supply tanks so that in the event of a component malfunction or failure, shutdown of all pumps will occur.

Subp. 11. **Irrigation.** "Irrigation" means the act of supplying water to land, crops, or plants by means of pipes, hoses, sprinklers, drippers, ditches, furrows, or other devices that are connected directly to a source of ground or surface water.

Subp. 12. **Operating chemigation equipment.** "Operating chemigation equipment" includes, but is not limited to:

A. preparing the solution and filling the pesticide supply container;

B. calibrating injection equipment;

C. starting and stopping equipment when injection of chemicals is involved; and

D. supervising the chemigation equipment to assure its safe operation.

Subp. 13. **Reduced pressure zone backflow preventer.** "Reduced pressure zone backflow preventer" means a device designed to prevent backflow consisting of two spring-loaded check valves with an intermediate reduced pressure zone that drains to the atmosphere by a relief valve, with a reduced pressure maintained in the intermediate zone by means of a pressure differential valve.

Subp. 14. **Supervision.** "Supervision" means the direct management of the chemigating system during its operation when chemicals are being applied.

Subp. 15. **Vacuum relief valve.** "Vacuum relief valve" means a device effectively designed and built to automatically relieve or break vacuum in an irrigation pipeline or conduit due to system failure or shutdown.

Subp. 16. **Water supply.** "Water supply" means a source of water that is connected to a single irrigation system such as a single well, group of wells, dug pit, lake, river, stream, or public water supply system.

1505.2010 REGISTRATION.

Subpart 1. **Permit required.** An owner or operator of a chemigation system shall obtain a chemigation permit before applying pesticides through the irrigation equipment. The commissioner has 45 days to review and approve the application or advise the applicant in writing of an unsatisfactory review and detail all necessary revisions.

Subp. 2. **Application.** An applicant for a chemigation permit shall submit an application on forms supplied by the commissioner. The application must include, but is not limited to:

A. the name, address, private applicator certification number, and telephone number of the owner or operator to whom a permit is to be issued;

B. a diagram or description for the irrigation system showing the use of anti-pollution devices;

C. a diagram showing devices and practices for preventing surface runoff and handling accumulations due to runoff;

D. a plan for use of containment relating to pesticide storage sites and supply tanks at the chemigation site, to be reviewed and approved by the commissioner;

E. the number and location, by legal description, of well heads that may be involved in the chemigation process, the location of surface water supply withdrawal points, and the location of the public water supply;

F. a copy of the owner's or operator's Department of Natural Resources water appropriation permit; and

G. a time table for the routine inspection planned for the chemigation system.

Subp. 3. **Permit term; fee.** The application fee for an initial chemigation user's permit established by Minnesota Statutes, section 18B.08, subdivision 4, must be submitted with the initial application. A chemigation user's permit must be renewed each year upon completing an application form and an "annual use report" form provided by the commissioner. Prior to changing any part of the permitted system, a revised application form must be submitted. The commissioner shall have 45 days to review and approve or deny the application.

Subp. 4. **Expedited initial conditional permit.** An owner or operator of a chemigation system wishing to expedite the chemigation initial permit process shall submit an application for a conditional permit on forms provided by the commissioner and include the initial fee required by Minnesota Statutes, section 18B.08, subdivision 4. The owner or operator shall also include with the application a letter describing the need for expediting the permit. The commissioner has five business days in which to review and approve or deny the conditional permit. The conditional permit is valid for 40 days after which the commissioner shall issue or deny a full year chemigation user's permit.

1505.2020 ANTI-POLLUTION DEVICES AND PROCEDURES.

Subpart 1. **Chemigation through irrigation systems.**

A. Pesticides may be used through irrigation systems not connected to public water supply systems for chemigation purposes, if the pesticide is labeled for this method of application.

B. Pesticides may be used through irrigation systems connected to a public water supply system if the pesticide is labeled for this method of application.

C. All chemigation systems must be calibrated to deliver labeled rates and must be fitted with functional anti-pollution devices as detailed in subpart 4 that prevent the backflow of pesticides or pesticide-water mixtures into water supplies during times of irrigation system failure or equipment shutdown.

Subp. 2. **Pesticide supply tank.** A pesticide supply tank used to supply the injection system for a single injection during chemigation may be located no closer than 15 feet from the irrigation water supply, such as a well head, unless positioned in an approved containment unit. Pesticide preparation or filling areas and pesticide storage sites may not be located within 150 feet of the water supply. The chemical injection point must be located down line from all anti-pollution devices located in the supply pipeline.

Subp. 3. **Storage; supply; containment.** Pesticide storage sites in use longer than three months at the chemigation site and any pesticide supply container used in conjunction with the chemigation system must be provided with a means of containment that will prevent unreasonable adverse effects on the environment in the event of a spill or leak. Containment capacity must be 125 percent of the supply container. Materials used for containment must be compatible with the pesticide stored in them.

Subp. 4. **Anti-pollution devices; valves.** Anti-pollution devices and valves for irrigation systems used for chemigation purposes must be designed and built of materials suitable for those purposes, including compatibility, and must be kept functional during chemigation application. The devices must comply with items A to H, and may be installed as portable devices for use on other registered chemigation or irrigation systems. Portable devices are not allowed for use for systems connected to public water supply systems.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

A. A reduced pressure zone backflow preventer or two check valves in series must be provided for systems not connected to a public water supply. The device must be located in the irrigation system supply pipeline between the irrigation system supply pump and the point of injection of the pesticide. If two check valves are used, each check valve must be immediately preceded in the system by a vacuum relief valve and an automatic low pressure drain valve. Check valves, when installed, must be level, except that a deviation of not more than ten degrees from the horizontal is permitted.

B. A reduced pressure zone backflow preventer must be provided for chemigation systems connected to a public water supply. The reduced pressure zone backflow preventer must be located in the irrigation supply line between the irrigation system supply pump and the point of injection of the pesticide.

(1) A reduced pressure zone backflow preventer must be certified by a recognized testing laboratory acceptable to the commissioner. The commissioner shall keep a list of acceptable testing laboratories and manufacturers models.

(2) A check valve must be of heavy duty construction with all materials, including internal parts, resistant to corrosion or protected to resist corrosion. It must be quick-closing by spring action and tight-sealing so that no leakage occurs at joints or the valve seat when subjected to an internal hydrostatic pressure test of at least two times the rated manufacturer's working pressure of the valve for one minute, and when subjected to an internal hydrostatic pressure equivalent to the head of a column of water five feet high retained within the downstream portion of the valve body for 16 hours, as evidenced by independent laboratory testing.

Check valves must be of a manufacturer and model specifically approved by the commissioner for use in chemigation systems. A check valve of a type that has not received prior approval by the commissioner may not be used until its adequacy has been demonstrated to the satisfaction of the commissioner and approval granted.

C. When required to be provided by item A, a vacuum relief valve must be installed on the top of the horizontal irrigation pipeline on the supply side of each check valve. The valve must have an orifice size of at least 3/4-inch diameter for a four-inch pipe, one inch diameter for a five- to eight-inch pipe, and two-inch diameter for a ten- or 12-inch pipe.

D. When required to be provided by item A, an automatic low pressure drain must be provided on the bottom of the horizontal irrigation pipeline on the supply side of each check valve. The device must have an orifice size of at least 3/4-inch diameter. The drain may not extend beyond the inside surface of the bottom of the irrigation pipeline or conduit, and must be at least two inches above grade. The device must be positioned, or the location grade adjusted, so that when draining occurs, liquid will flow away from any water supply.

E. A flow interrupter device interlocked with the injection unit must be provided in the pesticide supply line between the pesticide injection unit and the supply tank. A normally closed, solenoid-operated valve or other similar device is an acceptable method to positively prevent flow of material or liquid during injection system failure or shutdown.

F. A check valve that is resistant to chemicals must be provided on the pesticide injection line between the point of pesticide injection into the irrigation system and the pesticide injection unit, pump, or solution tank, positioned to prevent the flow of liquid from the irrigation line to the pesticide injection device.

G. A mechanical or electrical interlock must be provided between the irrigation system or pump and the pesticide injection unit. If interruption of the irrigation water flow occurs, the interlock must, at a minimum, cause the shutdown of the pesticide injection unit.

H. A low pressure switch must be located on the irrigation pipeline that will shut down the irrigation system's power supply when the water pressure decreases to the point where the pesticide distribution is adversely affected.

Subp. 5. **Purging system.** The irrigation system must be operated for at least ten minutes after the pesticide injection is terminated to allow for a complete purging of the pesticide from the system.

Subp. 6. **Posting of sites.** Sites being treated with pesticides through irrigation systems must be posted throughout the period of pesticide treatment.

1505.2030 RECORDS AND REPORTS.

The chemigation permit holder shall record daily the kinds and amounts of pesticides applied through each chemigation system. These records must be made available to the commissioner and retained for five years from the date of application. Records detailing dates of inspection, the names of inspectors, and the condition of the chemigation unit must also be kept.

1505.2040 RESPONSIBILITY.

An individual operating chemigation equipment under a chemigation user's permit is responsible for the safe operation of the chemigation equipment, and must be supervised by the permit holder.

1505.2050 COMMISSIONER'S RESPONSIBILITY.

The commissioner shall periodically provide chemigation safety information to each person holding a chemigation user's permit.

1505.2060 INSPECTION, INSTALLATION, MAINTENANCE, AND MODIFICATION.

Subpart 1. **Official entry.** For the purpose of carrying out parts 1505.2000 to 1505.2070, the commissioner, the commissioner's agents, or other designated state agency or county officials may enter a premises at a reasonable time to:

A. inspect equipment subject to parts 1505.2000 to 1505.2070;

B. inspect or sample water, lands, or crops reported to be exposed to pesticides;

C. inspect or investigate complaints or injury to humans, crops, land, or environment;

D. sample pesticides being applied or to be applied; and

E. observe the use and application of pesticides.

Subp. 2. **Proper installation.** Irrigation systems, devices, valves, pesticide injection units, pumps, and solution tanks used for chemigation purposes must be installed and maintained according to manufacturer's recommendations to ensure proper function during chemigation.

Subp. 3. **Calibration and inspection.** During periods of chemigation, the owner or operator shall periodically calibrate the pesticide injection system. The owner or operator shall also periodically inspect the entire system for proper operation.

Subp. 4. **Modification.** If modification or changes in design, technology, irrigation practices, or other similar reasons warrant the use or placement of equipment other than that specified in parts 1505.2000 to 1505.2070, the Department of Agriculture shall allow the changes if protection to the water supply is at least equal to that provided by the equipment or equipment placement, required in parts 1505.2000 to 1505.2070. Prior to making any changes in the system, the applicant shall submit a revised chemigation permit application to the commissioner. The commissioner has 45 days to review the application and issue a new permit or advise the applicant in writing of an unsatisfactory review, detailing all necessary revisions.

1505.2070 PROHIBITED ACTS.

It is a violation of Minnesota Statutes, chapter 18B, for a person to apply pesticides to land, crops, or plants in or with irrigation water in violation of parts 1505.2000 to 1505.2070.

EFFECTIVE DATE. Parts 1505.2000 to 1505.2070 become effective January 1, 1989.

Office of the Attorney General

Proposed Permanent Rules Relating to Rule Reviews

Notice of Intent to Adopt Amendments to a Rule Without a Public Hearing

Notice is hereby given that the Attorney General intends to adopt the above-entitled amendments to a rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes,* sections 14.22 to 14.28. The statutory authority to adopt the rule is *Minnesota Statutes* §§ 14.06, 14.09, 14.26, 14.32 and 14.365(8).

All persons have 30 days in which to submit comments in support of or in opposition to the proposed rule or to any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes,* sections 14.131 to 14.20.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Comments or written requests for a public hearing must be submitted to:

Julie A. Leppink
Administration/Finance Division
515 Transportation Building
John Ireland Boulevard
St. Paul, Minnesota 55155

The proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed.

A copy of the proposed rule is attached to this notice.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Julie A. Leppink upon request.

If no hearing is required, upon adoption of the rule the rule and the required supporting documents will be submitted to the Attorney General for review as to form and legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Julie A. Leppink at the address listed above.

Dated: 25 March 1988

Hubert H. Humphrey, III
Attorney General
State of Minnesota

Rules as Proposed

2010.0300 DOCUMENTS NECESSARY FOR REVIEW OF A RULE ADOPTED WITHOUT A PUBLIC HEARING.

To submit a rule adopted without a public hearing to the attorney general for review and approval pursuant to Minnesota Statutes, section 14.26, the agency must submit to the attorney general the following documents:

A. to D. [Unchanged.]

E. The notice of intent to adopt a rule without a public hearing as mailed. The notice must be signed by a person authorized to adopt the rule or authorized to sign and give notice of the intent to adopt the rule without a public hearing and must contain the following:

(1) to (3) [Unchanged.]

(4) A statement that if 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. ~~If the agency is fixing fees by rulemaking pursuant to Minnesota Statutes, section 16A.128, subdivision 2a, on or before July 1, 1987, subitem (15) is applicable.~~

(5) to (14) [Unchanged.]

(15) ~~If the agency is fixing fees by rulemaking without a public hearing pursuant to Minnesota Statutes, section 16A.128, subdivision 2a, on or before July 1, 1987, subitem (4) of this subpart is inapplicable and is substituted with a statement that no public hearing need be held unless 20 percent of the persons who will be required to pay the fee submit to the agency during the 30-day period allowed for comment a written request for a public hearing on the proposed rule. For fees established or adjusted after July 1, 1987, subitem (4) is applicable.~~

~~(16)~~ Any other notices required by law or rule to be included in the notice of intent to adopt a rule without a public hearing.

For the recommended format of the notice, see part 2010.9915.

F. to J. [Unchanged.]

K. The findings of fact, conclusions, and order adopting the rule which must contain the following:

(1) and (2) [Unchanged.]

(3) for rules that establish or adjust fees ~~after July 1, 1987~~, a statement that before the notice of intent to adopt rules was submitted to the *State Register*, a copy of the notice and the proposed rule was sent to the chairs of the house appropriations committee and senate finance committee;

(4) to (8) [Unchanged.]

L. to O. [Unchanged.]

2010.0500 RULE SUBMISSION AND AGENCY FAILURE TO SUBMIT REQUIRED DOCUMENTS.

Subpart 1. **Rule submission.** A rule is considered submitted to the attorney general when the rule and the record consisting of the required documents are received at the Office of the Attorney General, ~~Administrative/Finance~~ Administration/Finance Division located at ~~204 Administration Building, 50 Sherburne Avenue,~~ 515 Transportation Building, John Ireland Boulevard, Saint Paul, Minnesota 55155.

Subp. 2. **Failure to submit required documents.** Failure to submit all the required documents makes a submission incomplete. The attorney general must promptly inform the agency of the missing documents. If the missing documents include the required four copies of the rule as adopted, findings of fact, conclusions and order, declaration of the attorney in the attorney general's office who represents the agency, or the statement of need and reasonableness for a rule adopted without a public hearing, the rule review period will not be initiated. For other missing documents, if the agency submits the missing documents to the attorney general within the attorney general review period, the submission shall be deemed complete and the period of review shall continue to run. If the missing documents are not submitted within the review period, the rule must either be withdrawn from review or rejected by the attorney general.

2010.9915 RECOMMENDED NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING.

Department of _____

In the Matter of the Proposed
Adoption of the Rule of
the State _____
Governing _____

NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING

Notice is hereby given that the State _____ intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minnesota Statutes, sections 14.22 to 14.28. The statutory authority to adopt the rule is [specific statutory citation.]

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to:

[Name, address, and telephone number]

The proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed.

[A copy of the proposed rule is attached to this notice.]

or

[The rule proposed for adoption relates to the following matters (informative statement describing the nature and effect of the proposed rule). A free copy of the rule is available upon request from _____.]

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from _____ upon request.

[If applicable, other notices which are required or chosen to be inserted in the Notice of Intent to Adopt a Rule Without a Public Hearing must be inserted, for example, Minnesota Statutes, section 14.11, subdivision 1, 14.115, subdivision ~~4, or 16A.128, subdivision 2a~~.]

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to _____.

_____
Date

_____
[Name]

_____
[Title]

2010.9940 RECOMMENDED NOTICE OF SUBMISSION OF RULE ADOPTED WITHOUT PUBLIC HEARING TO ATTORNEY GENERAL.

STATE OF MINNESOTA

DEPARTMENT OF _____

In the Matter of the Proposed Adoption
of the Rule of the State _____
Governing _____

NOTICE OF SUBMISSION OF RULE ADOPTED WITHOUT PUBLIC HEARING TO THE ATTORNEY GENERAL

Pursuant to your request and in accordance with Minnesota Statutes, section 14.26:

PLEASE TAKE NOTICE that the above-captioned rule as adopted has been submitted to the Office of the Attorney General on the date of this notice, _____, 19_____, for review as to legality and form to the extent form relates to legality. The proposed rule, the rule as adopted, all the notices, the Statement of Need and Reasonableness, all written comments and requests for a hearing received, and other required documents also have been submitted to the Attorney General.

[(If the proposed rule has been modified:) The proposed rule which was published in the *State Register* and made available to the public on _____, 19_____, has been modified. A free copy of the rule as modified as well as the findings of fact, conclusions, and order explaining the amendments and adopting the rule is available upon request from _____
(or) A copy of the rule as modified is enclosed with this notice.]

The rule must be approved or disapproved by the Attorney General within 14 calendar days of the date of submission to the attorney general. You may submit written comments to the attorney general on the legality of the rule. Any written comments must be submitted within eight calendar days of the date of submission of the rule to the Attorney General. Your comments must address only the issue of legality of the rule or the legality of the specific parts or subparts of the rule. The attorney general standards for review are set forth in Minnesota Rules, part 2010.1000. You may receive a copy of the attorney general decision upon written request to the attorney general. Your comments or requests for the decision must be directed to:

The Office of the Attorney General
Administration/Finance Division
~~204 Administration Building~~
515 Transportation Building
~~50 Sherburne Avenue~~
John Ireland Boulevard
Saint Paul, Minnesota 55155
Telephone Number: (612) ~~296-1288~~ 296-9715

Any written comments submitted to the Attorney General must be submitted simultaneously to:

[Name, address, and phone number of
appropriate person in the agency]

[Name] _____

[Title] _____

Dated:_____

2010.9960 RECOMMENDED NOTICE OF SUBMISSION OF THE EMERGENCY RULE TO ATTORNEY GENERAL.

STATE OF MINNESOTA

DEPARTMENT OF _____

In the Matter of the Proposed Adoption
of the Rule of the State _____
Governing _____

NOTICE OF SUBMISSION OF EMERGENCY RULE TO THE ATTORNEY GENERAL

Pursuant to your request and in accordance with Minnesota Statutes, section 14.32:

PLEASE TAKE NOTICE that the above-captioned emergency rule as adopted has been submitted to the Office of the Attorney General on the date of this notice, _____, 19_____, for review as to legality and form to the extent form relates to legality. The proposed emergency rule, the rule as adopted, all the notices, all written comments received and other required documents also have been submitted to the attorney general.

[(If the proposed emergency rule has been modified:) The proposed emergency rule which was published in the State Register and made available to the public on _____, 19_____, has been modified. A free copy of the emergency rule as modified as well as the findings of fact, conclusions, and order explaining the amendments and adopting the rule is available upon request from _____. (or) A copy of the rule as modified is enclosed with this notice.]

The rule must be approved or disapproved by the Attorney General on the tenth working day following date of receipt of the rule. You may submit written comments to the Attorney General. Any written comments must be submitted within seven working days of the date of this notice. Your comments must address only the issue of legality of the rule or the legality of the specific parts or subparts of the rule. The attorney general standards for review are set forth in Minnesota Rules, part 2010.1000. You may receive a copy of the attorney general decision upon written request to the attorney general. Your comments or requests for the decision must be directed to:

The Office of the Attorney General
~~204 Administration Building~~
515 Transportation Building
~~50 Sherburne Avenue~~
John Ireland Boulevard
Saint Paul, Minnesota 55155
Telephone: (612) ~~296-1288~~ 296-9715

Any written comments submitted to the Attorney General must be submitted simultaneously to:

[Name, address, and phone number of
appropriate person in the agency]

_____
[Name]

_____
[Title]

Dated:_____

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Board of Podiatric Medicine

Proposed Permanent Rules Relating to Licensure; Fees

Notice of and Order for Hearing

IT IS HEREBY ORDERED AND NOTICE IS HEREBY GIVEN that the Board of Podiatric Medicine (hereinafter "Board") will hold a public hearing in the above-captioned matter, pursuant to *Minnesota Statutes* §§ 14.131 to 14.20 (1986), at the Minnesota Department of Health Building, in Room 105, 717 Delaware Street Southeast, Minneapolis, Minnesota, on Tuesday, June 7, 1988, commencing at 9:00 a.m., and continuing until all representatives of associations or other interested groups or persons have had an opportunity to be heard.

IT IS FURTHER ORDERED that notice of said hearing be given to all persons who have registered their names with the Board of Podiatric Medicine for that purpose and be published in the *State Register.*

All interested or affected persons, including representatives of associations or other interested groups, will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. Written material not submitted at the time of hearing which is to be included in the hearing record may be mailed to George A. Beck, Administrative Law Judge, Office of Administrative Hearings, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415, telephone (612) 341-7601. The hearing record will remain open for the inclusion of written material for five working days after the hearing ends unless a longer period not to exceed 20 calendar days is ordered by the administrative law judge at the hearing. Written material received during this period will be available for review at the Office of Administrative Hearings. The Board and interested persons may respond in writing within three business days after the submission period ends to any new information submitted. No additional evidence may be submitted during the three-day period.

The rulemaking hearing procedures are governed by *Minnesota Statutes* §§ 14.131 to 14.20 (1986) and by *Minnesota Rules* pts. 1400.0200 to 1400.1200 (1987). Questions about procedures may be directed to the administrative law judge.

A copy of the rules is attached to this notice. One free copy of the rule may be obtained from the Board by writing or telephoning Joyce M. Schowalter, Executive Director, Suite 108, 2700 University Avenue West, St. Paul, Minnesota 55114, telephone (612) 642-0568.

The statutory authority of the Board to adopt the proposed rule is contained in *Minnesota Statutes* § 153.02 (1986).

The proposed rule may be modified as a result of the rule hearing process. Those who are potentially affected in any manner by the substance of the proposed rule are therefore advised to participate in the process.

Minnesota Statutes ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in *Minnesota Statutes* § 10A.01, subd. 11 as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including the individual's own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than $250, not including the individual's own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101, telephone: (612) 296-5615.

Notice is hereby given that a statement of need and reasonableness is now available for review at the Board and at the Office of Administrative Hearings. This statement of need and reasonableness includes a summary of all the evidence and argument which the Board anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rule. Copies of the statement of need and reasonableness may be reviewed at the Board or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

NOTICE: Any person may request notification of the date on which the administrative law judge's report will be available, after which date the Board may not take any final action on the rules for a period of five working days. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the administrative law judge. Any person may request notification of the date on which the rule was adopted and filed with the Secretary of State. The notice must be mailed on the same day that the rules are filed. If you want to be so notified, you may so indicate at the hearing or send a request in writing to the Board at any time prior to the filing of the rule with the Secretary of State.

Promulgation of this proposed rule will not result in the expenditure of public monies by local public bodies nor have any impact

on agricultural land; therefore, no further information need be provided under *Minnesota Statutes* § 14.11 (1986).

The Board's evaluation of the applicability of the methods contained in *Minnesota Statutes* § 14.115, subd. 2 (1986), for reducing the impact of the proposed rules on small businesses are addressed in the statement of need and reasonableness.

Dated: 6 April 1988

Joyce M. Schowalter
Executive Director
Board of Podiatric Medicine

Rules as Proposed

6900.0010 DEFINITIONS.

Subpart 1. **Scope.** For purposes of this chapter, the following terms have the meanings given them.

Subp. 2. **Clinical residency.** "Clinical residency" means a formal, structured postdoctoral training program sponsored by and conducted in an accredited institution such as a hospital or ambulatory health care facility or conducted by a college of podiatric medicine accredited by the Council on Podiatric Medical Education, American Podiatric Medical Association, and designed to:

A. provide the podiatric medical graduate with a well-rounded exposure in preparation for management of podiatric conditions and diseases as they are related to systemic diseases;

B. develop the podiatric medical graduate in the art of preventing and controlling podiatric conditions and diseases and to promote foot health principally through mechanical and rehabilitative methods;

C. provide the podiatric medical graduate with clinical experience necessary to refine competency in the podiatric medical and surgical care of the foot as defined by the statutory scope of practice; or

D. provide the podiatric medical graduate with clinical experience necessary to become competent in the full scope of advanced podiatric medicine and surgery.

Subp. 3. **Preceptorship.** "Preceptorship" means a formal, structured postdoctoral training program conducted by a podiatrist primarily in an office based setting and controlled and supervised by a college of podiatric medicine accredited by the Council on Podiatric Medical Education, American Podiatric Medical Association, and designed to provide the recent podiatric medical graduate sufficient experiences to have further patient care exposure, to improve clinical management and communication skills, and to obtain increased self confidence.

Subp. 4. **Board.** "Board" means the Minnesota Board of Podiatric Medicine.

Subp. 5. **Revoke a license.** "Revoke a license" means to rescind the right to practice and cause the podiatrist to reapply and meet the licensure requirements at the time of application.

Subp. 6. **Suspend a license.** "Suspend a license" means to discontinue a licensee's right to practice for a definite or indefinite time until specified conditions are met.

Subp. 7. **False or misleading advertising.** "False or misleading advertising" means a statement or claim that:

A. contains a misrepresentation of fact;

B. is likely to mislead or deceive because in context it makes only a partial disclosure of relevant facts;

C. is intended or is likely to create false or unjustified expectations of favorable results;

D. appeals to an individual's anxiety in an excessive or unfair way;

E. contains material claims of superiority that cannot be substantiated;

F. misrepresents a podiatrist's credentials, training, experience, or ability; or

G. contains other representations or implications that in reasonable probability will cause an ordinary, prudent person to misunderstand or be deceived.

6900.0020 LICENSURE REQUIREMENTS.

Subpart 1. **Moral character.** The applicant must respond to questions on the application that pertain to the grounds for denial of a license found in Minnesota Statutes, section 153.19, subdivision 1.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

A personal recommendation must be received from at least one podiatrist who is licensed in any state and who can recommend the applicant for licensure in Minnesota.

Subp. 2. **Education.** The applicant must submit a complete transcript of education obtained in one of the following accredited colleges of podiatric medicine:

A. California College of Podiatric Medicine, San Francisco, California;

B. New York College of Podiatric Medicine, New York, New York;

C. Ohio College of Podiatric Medicine, Cleveland, Ohio;

D. Pennsylvania College of Podiatric Medicine, Philadelphia, Pennsylvania;

E. Scholl College of Podiatric Medicine, Chicago, Illinois;

F. University of Osteopathic Medicine and Health Sciences College of Podiatric Medicine and Surgery, Des Moines, Iowa; or

G. any other college accredited by the Council on Podiatric Medical Education, American Podiatric Medical Association.

The transcript must contain the date of graduation, degree granted, and an original seal of the college.

Subp. 3. **Examination.** The applicant must have received a passing score on each section of all parts of the National Board of Podiatric Medical Examiners Licensing Examination. A passing score is the number corresponding to the cut score recommended by the national board.

A copy of the applicant's scores must be submitted. The copy must contain an original seal of the national board.

A state clinical examination shall include demonstration of the clinical application of podiatric medical knowledge and skill, but need not include demonstrations on actual patients. The examination may be developed in cooperation with boards of podiatric medicine in other states. The passing score is the number corresponding to the cut score recommended by a test development consultant.

Subp. 4. **Clinical residency.** An acceptable clinical residency must be at least 12 consecutive months in length and be approved by the Council on Podiatric Medical Education of the American Podiatric Medical Association.

Subp. 5. **Preceptorship.** An acceptable preceptorship must:

A. consist of a minimum of 12 consecutive months of study;

B. operate under the control and supervision of an accredited college of podiatric medicine; and

C. have written objectives appropriate to all training aspects of the program.

Subp. 6. **Preceptor requirements.** The preceptor must:

A. have a practice that offers experience as defined by the statutory scope of practice with the care of children and adults and in drug therapy, radiology, local anesthesia, analgesia, biomechanics, physical medicine, rehabilitation, and the following surgeries:

(1) nail;

(2) digital;

(3) soft tissue;

(4) forefoot;

(5) metatarsal;

(6) midfoot; and

(7) rearfoot or ankle;

B. hold a clinical appointment at a college or be a member of the teaching staff of a hospital sponsoring a residency program;

C. have a hospital staff appointment with podiatric surgical privileges, however, the granting of staff privileges is solely within the discretion of individual institutions; and

D. not have been the subject of disciplinary action concerning professional conduct or practice.

Subp. 7. **Other graduate training.** Other acceptable training must meet the following standards:

A. The program must be 12 consecutive months of formal, structured study started after graduation from a college of podiatric medicine, have written objectives appropriate to all training aspects of the program, and have a written evaluation process.

B. Experience within the statutory scope of practice must include drug therapy, radiology, local anesthesia, analgesia, biomechanics, physical medicine, rehabilitation, and the following surgeries:

(1) nail;

(2) digital;

(3) soft tissue;

(4) forefoot;

(5) metatarsal;

(6) midfoot; and

(7) rearfoot or ankle.

The care of children and adults must be included.

C. A licensed podiatrist must be designated as the unlicensed podiatrist's supervisor and assume full podiatric responsibility for patient services provided by the unlicensed podiatrist. The supervisor must not have been the subject of disciplinary action concerning professional conduct or practice.

D. The supervisor must have a hospital appointment with surgical privileges or have a written arrangement for the unlicensed podiatrist to have at least four months experience with a licensed podiatrist who holds a hospital appointment with surgical privileges, however, the granting of staff privileges is solely within the discretion of individual institutions.

E. The supervisor shall instruct and direct the unlicensed podiatrist in his or her duties, oversee and check the work, and provide general direction to the unlicensed podiatrist. The unlicensed podiatrist and supervising podiatrist shall comply with at least the following criteria:

(1) A supervisor shall review and evaluate patient services provided by the unlicensed podiatrist on a daily basis from information in patient charts or records. Review may either be in person or by telecommunication.

(2) A supervisor shall be on site at facilities staffed by an unlicensed podiatrist.

(3) One of the licensed podiatrists referred to in item D must be present during the performance of surgical treatment by the unlicensed podiatrist.

(4) A supervising podiatrist may not supervise more than two unlicensed podiatrists.

Subp. 8. **Personal appearance.** The applicant shall be scheduled for a personal appearance before one or more members of the board or the executive director when the other requirements for licensure have been met. The board may waive the personal appearance if one or more board members has personal knowledge of the accuracy of the applicant's application.

Subp. 9. **License in another state.** The applicant licensed in another state must cause a form supplied by the board to be submitted from the board of podiatric medicine in the state of original licensure and the other states in which a license was held during the five years immediately preceding application.

6900.0030 APPLICATION NULLIFICATION.

Subpart 1. **Reasons.** The board will nullify an application for licensure if the applicant fails to complete the application process within 36 months after submission of the application or notification by the board of a deficiency, whichever is later, unless a different action is agreed upon during a disciplinary proceeding.

Subp. 2. **Effect.** For a nullified application, the fees are forfeited and the application and other documents may be destroyed under the process specified in *Minnesota Statutes*, section 138.17, subdivision 7. If the applicant later desires licensure, a new application must be submitted and the applicable requirements must be met.

6900.0160 TEMPORARY PERMIT.

Subpart 1. **Prerequisites.** An applicant for a temporary permit to practice podiatric medicine must submit a complete, acceptable application for a Minnesota license and pay the required fees. The clinical examination and personal interview may be completed during the permit period.

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The applicant must submit written evidence that the applicant has been accepted as a resident, preceptee, or graduate trainee in a program and that the program meets the standards in part 6900.0020, subpart 4, 5, 6, or 7.

Subp. 2. **Term of permit.** The permit is issued for a period not to exceed 12 months of training that must occur within 18 consecutive months. A permit may be reissued once to a qualified applicant. A permit expires when an applicant is licensed, or must be revoked if an applicant has engaged in conduct that constitutes grounds for denial of a license, discontinues training, or moves out of Minnesota.

Subp. 3. **Scope of practice.** The scope of practice of the permit holder is limited to the performance of podiatric medicine within the structure of the residency, preceptorship, or other graduate training program within which the permit holder is enrolled.

6900.0200 ~~REGISTRATION~~ LICENSE RENEWAL.

~~Every application for renewal of registration by a podiatrist shall be accompanied by a fee.~~ Subpart 1. **Active status.** The license renewal term is 12 months beginning on July 1 and ending on June 30. Applications received and postmarked after June 30 will be returned for addition of the late renewal fee.

An applicant for license renewal must submit to the board:

A. an application form, renewal fee, and, if applicable, the late renewal fee; the application form must provide a place for the renewal applicant's signature and must solicit information including the applicant's office address, and other information that may be reasonably requested by the board;

B. evidence of participation in approved continuing education programs as described in part 6900.0300; and

C. other evidence as the board may reasonably require.

Subp. 2. **Failure to submit renewal application.** The procedures in subparts 3 to 6 will be followed by the board for licensees who have failed to submit the renewal application including information about continuing education and applicable fees.

Subp. 3. **Notice.** Any time after July 1, the board will send to the last address on file with the board, a notice to licensees who have not applied for license renewal. The notice will state that the licensee has failed to make application for renewal; the amount of renewal and late fees and the information required about continuing education that must be submitted in order for the license to be renewed; that the licensee may voluntarily terminate the license by notifying the board; and that failure to respond to the notice by the date specified, which date must be at least 30 days after the notice is sent by the board, either by submitting the renewal application and applicable fees and information required about continuing education or by notifying the board that the licensee has voluntarily terminated the license, will result in expiration of the license and terminating the right to practice.

Subp. 4. **Result.** If the application for renewal, including required information about continuing education and the applicable renewal and late fees or notice of voluntary termination, is not received by the board by the date specified in the notice, the license will expire and the licensee's right to practice terminates on the date specified in the notice. The expiration and termination will not be considered a disciplinary action against the licensee.

Subp. 5. **Reinstatement.** A license that has expired under this part may be reinstated under part 6900.0210.

Subp. 6. **Contested case proceeding.** The board, in lieu of the process in subpart 3, may initiate a contested case hearing to revoke or suspend a license for failure to submit fees and continuing education information requested on the renewal application at the time it initiates disciplinary proceedings against the licensee for other grounds specified in Minnesota Statutes, sections 153.01 to 153.25.

Subp. 7. **Name and address change.** A podiatrist who has changed names shall notify the board in writing as soon as possible and request a revised renewal certificate. The board may require substantiation of the name change by requiring official documentation.

A podiatrist shall maintain with the board a correct mailing address to receive board communications and notices. A podiatrist who has changed addresses shall notify the board in writing as soon as possible. Placing a notice in first class United States mail, postage prepaid and addressed to the licensee at the licensee's last known address, constitutes valid service.

6900.0210 REINSTATEMENT OF LICENSE.

Subpart 1. **Requirements.** Upon complying with the requirements in this part, the applicant's license must be reinstated. The podiatrist desiring the reinstatement of a license shall submit the following materials:

A. an application form, license renewal fee, and, if the request is received within 12 months of a previous license expiration, the late renewal fee;

B. verification of licensure status from each state in which the podiatrist has held an active license during the five years preceding application;

C. if the license has been inactive for five years or less, evidence of participation in 15 hours of acceptable continuing

education for each year that the license was expired or terminated up to 75 hours;

D. if the license has been inactive for more than five years, evidence of continuing competency as shown by submission of 75 hours of acceptable continuing education obtained during the five years immediately before application; or

E. other evidence as the board may reasonably require.

Subp. 2. **Revoked or suspended license.** No license that has been suspended or revoked by the board will be reinstated unless the applicant for reinstatement provides evidence of full rehabilitation from the cause for which the license was suspended or revoked and complies with the other reasonable conditions imposed by the board for the purpose of establishing the extent of rehabilitation. In addition, if the disciplinary action was based in part on failure to meet continuing education requirements, the license will not be reinstated until the applicant has successfully completed the requirements. The board may require the licensee to pay the costs of the proceedings resulting in the suspension or revocation of a license under its disciplinary authority and the reinstatement or issuance of a new license. A licensee who has been disciplined by the board in a manner other than by suspension or revocation may be required by the board to pay the costs of the proceedings resulting in the disciplinary action.

Subp. 3. **Licensure application not precluded.** Nothing in this part prohibits a podiatrist from applying for licensure under *Minnesota Statutes*, section 153.16.

6900.0250 FEES.

Subpart 1. **Amounts.** Fees for ~~the licensure of~~ podiatrists are as follows:

A. ~~The fee for~~ licensure ~~by examination is,~~ $200~~.~~;

B. ~~The fee for~~ reexamination by the board under an original application ~~is~~ for licensure, $200~~.~~;

C. ~~The fee for~~ renewal of a license ~~is,~~ $75~~.~~;

D. ~~The fee for~~ late renewal of a license ~~is,~~ an additional $50~~.~~;

E. ~~The fee for licensure by reciprocity is~~ temporary permit, $200~~.~~; and

F. ~~The fee for the~~ replacement of an original license or renewal certificate ~~is,~~ $10.

Subp. 2. **Requirements.** Fees must be paid in United States money. A personal check is not acceptable for payment of a license or temporary permit. Fees are not refundable.

6900.0300 CONTINUING EDUCATION.

Subpart 1. **Requirement.** Every podiatrist licensed to practice in Minnesota shall obtain ~~12~~ 15 clock hours of continuing education ~~credit~~ each ~~licensure year~~ license renewal period. ~~The licensure year begins on July 1 and ends on June 30.~~

Subp. 2. **Obtaining ~~credit~~ continuing education hours.** Continuing education ~~credit~~ hours shall be obtained in the following manner~~.~~ ~~No less than nine hours of credit per year shall be received through attendance at scientific podiatry seminars approved by the board under this subpart and subpart 3. The seminar must be designed for the benefit of podiatrists. Any speaker or lecturer must be a licensed podiatrist, health professional, or person especially qualified to address a subject of particular interest to podiatrists. The seminar must be of significant intellectual content.~~

~~No more than three hours of credit per year may be received through attendance at hospital staff meetings and state group meetings.~~:

A. attendance at educational programs approved by the board under subpart 3;

B. attendance at hospital staff meetings (no more than three hours of hospital staff meetings may be used for license renewal each year); or

C. participation in a clinical residency, preceptorship, or graduate training that meets the requirements of part 6900.0020, subpart 4, 5, 6, or 7.

Subp. 3. **Requirements of program approval ~~of seminars~~.** ~~To obtain prior approval, a detailed description of the seminar content and the credentials of speakers shall be submitted to the board at least 60 days in advance of the course or meeting.~~

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~~Seminars may be approved at any time by the board if the required submission is made in the same licensure year in which the course or meeting was offered.~~ Approval of each continuing education program that the licensee desires to use to meet the license renewal requirements should be approved by the board before registration for the program but must be approved by the board before license renewal is granted.

In order for a continuing education program to be approved by the board, the program must meet the following criteria:

A. The content must be directly related to the practice of podiatric medicine as defined in *Minnesota Statutes*, section 153.01, subdivision 2. Subjects such as practice management, risk management, or those not of a scientific nature are not acceptable.

B. The speaker must be a licensed podiatrist, other credentialed health care professional, or person especially qualified to address the subject.

C. The sponsor must provide the attendee a written statement of attendance that includes the name and dates of the program, the name and address of the sponsor, the number of continuing education clock hours granted by the sponsor, the name of the attendee and a signature of the sponsor or designee, or upon completion of the program, the sponsor must send the board a list of attendees.

Subp. 3a. **Procedure for program approval.** Either the sponsor of a continuing education program or a podiatrist may submit the program for approval by the board.

The following information about the program is required:

A. name and address of the program sponsor;

B. dates and times of the program;

C. subject or content matter of the program;

D. name of and identifying information about the speakers or instructors; and

E. assurance that a written statement of attendance will be given to the podiatrist or that a list of attendees will be sent to the board.

The board shall approve each continuing education program for a specific number of clock hours of continuting education. One clock hour is 60 minutes. Partial hours will not be granted. Lunch breaks, rest periods, greetings, and other noneducational time will not be included.

Subp. 4. **Proof of attendance.** Proof of attendance at ~~meetings or seminars described in subparts 2 and 3~~ continuing education programs meeting the requirement of this part shall be submitted to the board at the time of license renewal in the form of a certificate, descriptive receipt, or affidavit.

Subp. 5. **Failure to comply.** The board may take disciplinary action to suspend, revoke, limit, or refuse to renew the license of any podiatrist failing to comply with these continuing education requirements.

Subp. 6. [See Repealer.]

6900.0400 DISCIPLINE.

Insurers required to submit reports to the board under *Minnesota Statutes*, section 153.24, subdivision 4, shall send the reports to the board by the first day of the months of February, May, August, and November of each year.

Grounds for disciplinary action include failure to supervise a resident, preceptee, other graduate trainee, or undergraduate student.

REPEALER. Minnesota Rules, part 6900.0300, subpart 6, is repealed.

Pollution Control Agency
Water Quality Division

Proposed Permanent Rules Relating to Clean Water Partnership

Notice of Intent to Adopt Rules Without a Public Hearing

Notice is hereby given that the Minnesota Pollution Control Agency (Agency) intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act (*Minnesota Statutes*, §§ 14.22 to 14.28 (1986)) for adopting rules without a public hearing. The Agency's authority to adopt the rule is set forth in *Minnesota Statutes*, § 115.10 (Supp. 1987).

All persons have until 4:30 p.m. on May 18, 1988, to submit comments in support of or in opposition to the proposed rules or any part or subpart of the rules. Comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rules within the comment period. If 25 or more persons submit a written request for a public hearing within the comment period, a public hearing will be held unless a sufficient number withdraw their requests in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any change proposed. If a public hearing is required, the Agency will proceed pursuant to *Minnesota Statutes* §§ 14.131 to 14.20 (1986).

Comments or written requests for a public hearing must be submitted to:

Mr. Gaylen Reetz
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155
(612) 296-8834

The proposed rules may be modified if the modifications are supported by data and views submitted to the Agency and do not result in a substantial change in the proposed rule as noticed.

The proposed rules, if adopted, will establish the criteria and procedural conditions under which the Agency may award grants for projects to control nonpoint sources of pollution.

The proposed rules provide separate grants for fifty percent of the eligible costs of project development and project implementation. The project development grant is to complete a diagnostic study and implementation plan which meet the requirements defined in the rules. The project development activities identify the specific water quality problems and sources of pollution and the combination of best management practices, activities and protective measures that will be necessary to solve the identified problems. The project implementation grant is to install the best management practices and carry out the educational and other activities identified in the implementation plan completed through the project development grant.

The proposed rules also include the procedures and conditions for administration of the program. This includes the application requirements that provide the Agency with the information necessary to rank the projects in order of priority for funding. The rules spell out the criteria and procedures to be used by the Agency in ranking projects to receive funding, the allocation of funds between project development grants, project implementation grants and the continuation of ongoing projects. The rules also identify costs that are eligible for reimbursement, requirements for contracts between the Agency and project sponsor and procedures for reimbursement of grant eligible costs. The proposed rules are published below. One free copy of the rules is available upon request from Mr. Gaylen Reetz at the address and telephone number stated above.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Mr. Gaylen Reetz upon request.

You are hereby advised, pursuant to *Minnesota Statutes* § 14.115 (1986), "Small business considerations in rulemaking," that the proposed rules will not have any direct adverse effects on small businesses. In most projects, small businesses will benefit from contracts provided by the project sponsor to complete project activities.

You are hereby advised, pursuant to *Minnesota Statutes* § 14.11, Subd. 1, that the proposed rules will not require the expenditure of public monies by local units of government unless a local unit of government elects to participate in the Clean Water Partnership Program.

You are hereby advised, pursuant to *Minnesota Statutes* § 14.11, Subd. 2, that the proposed rules will not have any direct adverse effects on agricultural lands in the state. In areas where projects are conducted, it will improve agricultural lands because many best management practices have secondary benefits such as improving soil productivity and limiting soil erosion.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the rule as adopted, must submit a written request to Mr. Gaylen Reetz.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Please be advised that *Minnesota Statutes*, ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in *Minnesota Statutes*, § 10A.01, subd. 11 (1986) as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than $250, not including his own travel expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The state provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone (612) 296-5615.

Gerald L. Willet
Commissioner

Rules as Proposed (all new material)

CHAPTER 7076
MINNESOTA POLLUTION CONTROL AGENCY
WATER QUALITY DIVISION
CLEAN WATER PARTNERSHIP GRANTS

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.

7076.0110 DEFINITIONS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7076.0120 AVAILABLE ASSISTANCE.

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

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

7076.0130 ELIGIBILITY CRITERIA.

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

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

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

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

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

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

B. fiscal and management activities including report preparation;

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

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

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

F. development and implementation of official controls;

G. acquisition of easements and property; and

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

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

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

B. operation and maintenance of best management practices;

C. activities regulated by the National Pollutant Discharge Elimination System permit program, parts 7001.1000 to 7001.1100; the State Disposal System permit program; the Petroleum Tank Release Clean-up 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.

7076.0140 NOTICE OF GRANT AVAILABILITY.

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

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

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

7076.0150 GRANT APPLICATION.

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

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

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

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

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

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

E. the amount of grant funding requested;

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

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

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

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

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

(4) a schedule containing milestones for project development;

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

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

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

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

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

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

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

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

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

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

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

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

7076.0160 REJECTION OF GRANT APPLICATION.

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

A. an ineligible applicant;

B. ineligible costs;

C. a late submittal; or

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

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

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

7076.0170 PROJECT RANKING.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7076.0180 ALLOCATION OF FUNDING.

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

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

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

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

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

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

7076.0190 SELECTION OF PROJECTS FOR GRANT AWARD.

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

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

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

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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.

7076.0200 PROJECT CONTINUATION GRANT AMENDMENT.

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

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

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

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

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

7076.0210 GRANT CONDITIONS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7076.0220 GRANT CONTRACT.

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

A. establish the terms and conditions of the grant;

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

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

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

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

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

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

7076.0230 MONITORING PLAN.

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

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

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

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

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

7076.0240 DIAGNOSTIC STUDY.

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

A. a detailed description of the water of concern;

B. a detailed description of the project area;

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

D. the identification and documentation of the methods, procedures, model, and other tools used to prepare and complete the diagnostic study.

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

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

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

C. current data or information for the following:

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

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

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

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

(d) a summary of available fisheries information;

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

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

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

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

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

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

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

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

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

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

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

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

A. a map of the project area;

B. an aerial photo of the project area;

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

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

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

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

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

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

I. soil:

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

(2) a map of erosion-prone soils;

J. land use:

(1) existing and future land uses;

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

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

(4) irrigated acreage;

(5) domestic animal density and feedlots;

(6) on-site wastewater treatment systems;

(7) existing management practices;

(8) known tiling and drainage systems;

(9) estimates of pesticide and fertilizer use;

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

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

(12) underground storage tank sites;

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

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

(15) areas delineated as floodplains;

(16) areas with known flooding problems;

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

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

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

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

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

(22) population characteristics; and

(23) a summary of recreational land uses;

K. precipitation:

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

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

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

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

L. hydrology:

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

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

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

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

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

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

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

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

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

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

C. the identification of project objectives in terms of:

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

(2) economic, recreational, and health factors;

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

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

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

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 nonpoint source pollution;

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

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

7076.0260 DIAGNOSTIC STUDY AND IMPLEMENTATION PLAN APPROVAL.

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

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

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

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

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

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

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

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.

7076.0280 GRANT PAYMENTS.

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

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

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

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

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.

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Adopted Rules

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 14.14-14.28 have been met and five working days after the rule is published in *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strikeouts and new language will be underlined. The rule's previous *State Register* publication will be cited.

An emergency rule becomes effective five working days after the approval of the Attorney General as specified in Minn. Stat. § 14.33 and upon the approval of the Revisor of Statutes as specified in § 14.36. Notice of approval by the Attorney General will be published as soon as practicable, and the adopted emergency rule will be published in the manner provided for adopted rules under § 14.18.

Department of Human Services

Adopted Emergency Amendments to Permanent Rules and Emergency Rules Relating to General Assistance Literacy Training Requirements

The rules proposed and published at *State Register*, Volume 12, Number 18, pages 953-956, November 2, 1987 (12 S.R. 953) are adopted with the following modifications:

Rules as Adopted

9500.1206 PROGRAM DEFINITIONS.

Subpart 1. to 24. [Unchanged.]

Subp. 24a. **Occupational or vocational literacy program.** "Occupational or vocational literacy program" means a program providing literacy training ~~in the~~ which emphasizes specific ~~literacy~~ language and reading skills needed to perform in employment, complete employment training programs, or complete work readiness programs.

9500.1257 [Emergency] LITERACY TRAINING FOR RECIPIENTS.

Subp. 2. **Assessment.** The local agency shall assess each recipient eligible under part 9500.1258, subpart 1, item P, to identify any learning disabilities the recipient may have and to determine the recipient's existing reading level, reading potential, and vocational or occupational interests. The results of literacy testing and any other assessments conducted by the local agency under this subpart must be made available to the literacy training provider ~~under~~ in accordance with Minnesota Statutes, sections 13.01 to 13.90, the Minnesota Government Data Practices Act.

Subp. 4. **Reassignment.** If a suitable recipient fails, with good cause as defined in part 9500.1206, subpart 15, to complete a literacy program to which the recipient is assigned under subpart 3, the local agency shall assign the recipient to an opening in another accessible literacy program if the recipient wants to participate in another program. If the recipient does not have good cause for refusing reassignment to another program, the recipient must be disqualified under part 9500.1266.

Department of Human Services

Adopted Emergency Rule Relating to Work Incentive Housing Subsidy for AFDC Recipients

The rules proposed and published at *State Register*, Volume 12, Number 18, pages 956-959, November 2, 1987 (12 S.R. 956) is adopted with the following modifications:

Rule as Adopted

9500.2890 [Emergency] WORK INCENTIVE HOUSING SUBSIDY.

Subp. 2. **Eligibility criteria.** To be eligible for the housing subsidy, a person must:

B. be a caretaker and recipient of AFDC on the date of application or within 30 days prior to the date of application;

Subp. 7. **Final selection.** The department shall select randomly from the applicants found eligible and the applicants who have

filed timely appeals under subpart 6 a sufficient number of applicants to ensure that the funds available for the housing subsidy are fully encumbered. The department shall notify all eligible applicants of whether they have been selected to receive a housing subsidy. The notification must inform selected applicants of the beginning and ending dates of their subsidy payments and the conditions set out in subpart 15 under which an applicant's housing subsidy will be terminated. The notice must inform applicants who are not selected to receive the housing subsidy that they will be eligible for any subsequent random drawings which may be held under subpart 12 unless they are determined to be ineligible under subpart 2.

Subp. 11. **Appeals.** Ineligibility determinations under subpart 6 and the termination of housing subsidy payments under subpart 15 may be appealed under Minnesota Statutes, section 256.045. The failure to select an eligible applicant through the random selection identified in subpart 7, is not appealable under Minnesota Statutes, section 256.045. Subsidy payments must not be continued or started during the pendency of an appeal. If the appeal is decided in the applicant's favor, the applicant must be issued the subsidy payments to which the applicant is entitled, including the payments withheld while the appeal was being decided.

Official Notices

Pursuant to the provisions of Minnesota Statutes § 14.10, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Charitable Gambling Control Board

Outside Opinion Sought Regarding Proposed Rules Governing Lawful Gambling and the Distribution of Lawful Gambling Equipment

Notice is hereby given that the Charitable Gambling Control Board is seeking information or opinions from sources outside the agency in preparing to promulgate new rules governing lawful gambling and to modify existing rules. The promulgation of these rules is authorized by *Minnesota Statutes* 349.151, subdivision 4, (1986) as amended, which empowers the agency to license organizations and suppliers, collect taxes, receive reports from and inspect records of organizations and suppliers, register gambling equipment, provide for posting of rules of play and odds and/or house percentage on each form of lawful gambling, and otherwise regulate the conduct of lawful gambling in Minnesota.

Small businesses involved in lawful gambling or distributing lawful gambling equipment are advised that they may be impacted by rules adopted by the Charitable Gambling Control Board in that the rules will provide for license fees, record keeping and reporting, and other procedures and requirements to which small businesses may have to adhere.

The Charitable Gambling Control Board requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements should be addressed to:

Roger Franke
Charitable Gambling Control Board
1821 University Avenue, Room N-475
St. Paul, MN 55104-3383

Oral statements will be received during regular business hours over the telephone at 612/642-0555 and in person at the above address.

Any written material received by the Charitable Gambling Control Board will become part of the record in the event that the rules are promulgated.

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Metropolitan Council of the Twin Cities Area

Notice of Public Hearing on Proposed Revisions to the *Water Resources Management Development Guide,* Part 1, Sewage Treatment and Handling Policy Plan

The Metropolitan Council will hold a public hearing on Wednesday, May 18, 1988 on the proposed revisions to the *Water Resources Management Development Guide,* Part 1, Sewage Treatment and Handling Policy Plan. The hearing will be held at 7 p.m. in the Metropolitan Council Chambers, 300 Metro Bldg., 7th and Robert Sts., St. Paul, Minnesota 55101. The purpose of the draft plan is to guide the development of metropolitan sewer service in the seven-county Metropolitan Area to 2010. Plan policies address water quality management, sanitary sewer services, the governmental framework and financial management. The document specifies implementing activities for the Metropolitan Waste Control Commission (MWCC) and local governments. In accordance with state law the comments of the MWCC regarding the proposed plan are also to be made available at the public hearing. All interested persons are encouraged to attend the hearing and offer comments or submit comments in writing. The hearing record will be held open until June 2. People may register to speak in advance by calling Jane Larson at 291-6500. Copies of the proposed plan and the MWCC's comments will be available for public inspection beginning April 18 at designated libraries throughout the region. For information on the location of these libraries or a free copy of the proposed plan and MWCC's comments, call 291-6464.

Minnesota Pollution Control Agency

Notice of Public Meeting Regarding Revisions to the Minnesota State Implementation Plan for Air Quality

NOTICE IS HEREBY GIVEN, that the Minnesota Pollution Control Agency (hereinafter "Agency") on May 24, 1988, will consider a proposed revision to the State Implementation Plan (SIP). The revision involves the inclusion of a "committal" SIP that supplements the existing SIP with enforceable commitments to perform the actions required at 52 *Federal Register* 24681 for such "committal" SIPs.

This "committal" SIP commits the state to conduct monitoring activities for PM-10 particulate matter, to notify the Environmental Protection Agency (EPA—Region V) if a nonattainment problem is found, and to revise the SIP if needed to assure attainment and maintenance of the PM-10 National Ambient Air Quality Standard.

The Agency will consider this "committal" SIP at its regularly scheduled, May 24, 1988 Board Meeting.

NOTICE IS HEREBY GIVEN, that the public is invited to attend the Agency meeting on May 24, 1988, and to comment on the proposed SIP revision. The meeting will begin at 9:00 a.m. in the Agency Board Room located at 520 North Lafayette Road, St. Paul, Minnesota 55155. A copy of the meeting Agenda and the SIP revision will be mailed to any interested person upon the Agency's receipt of a written request. Requests for copies of the meeting Agenda and the SIP revision should be mailed to:

Ms. Heather Davis-Peabody
Division of Air Quality
Minnesota Pollution Control Agency
520 Lafayette Road
St. Paul, Minnesota 55155

Written comments on the proposed SIP revisions should be submitted prior to May 18, 1988 and should be addressed to:

Ms. Shiela Ugargol
Division of Air Quality
Minnesota Pollution Control Agency
520 Lafayette Road
St. Paul, Minnesota 55155

All written comments received during the public comment period will be considered by the Agency.

Additional materials relating to the issuance of this amendment are available for inspection at the Minnesota Pollution Control Agency, Division of Air Quality, 520 Lafayette Road, St. Paul, Minnesota 55155, phone (612) 296-7868, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

Gerald Willet, Commissioner

Minnesota State Retirement System

Board of Directors, Regular Meeting

A meeting of the Board of Directors, Minnesota State Retirement System will be held on Friday, April 22, 1988 at 8:30 a.m. in the office of the System, 529 Jackson Street, St. Paul, Minnesota.

Teachers Retirement Association

Notice of Regular Meeting

The Board of Trustees, Minnesota Teachers Retirement Association will hold a meeting on Thursday, May 5, 1988 at 9:00 a.m. in Suite 500, Gallery Building, 17 West Exchange Street, St. Paul, MN to consider matters which may properly come before the Board.

Department of Transportation

Petition of the City of Oakdale for a Variance from State Aid Administration Requirements for Determination of Maintenance Monies

Notice is hereby given that the City Council of the City of Oakdale has made a written request to the Commissioner of Transportation pursuant to *Minnesota Rules* § 8820.3300 for a variance from requirements for establishing the City of Oakdale's 1988 State Aid Maintenance Allocation.

The request is for a variance from *Minnesota Rules* for State Aid Operations § 8820.1400 adopted pursuant to *Minnesota Statutes*, Chapter 161 and 162, so as to permit the City of Oakdale to increase their 1988 Maintenance Allotment by $56,765. The monies to be transferred from their State Aid Construction account to their State Aid Maintenance account.

Any person may file a written objection to the variance request with the Commissioner of Transportation, Transportation Building, St. Paul, Minnesota 55155.

If a written objection is received within 20 days from the date of this notice in the *State Register*, the variance can be granted only after a contested case hearing has been held on the request.

Dated: 5 April 1988

Leonard W. Levine
Commissioner

Minnesota Public Utilities Commission

Notice of Intent to Solicit Outside Information Regarding Proposed Rule Governing Geographic Deaveraging of Telephone Company Rates, Docket No. P-999/R-88-208

Notice is hereby given that the Minnesota Public Utilities Commission (Commission) is seeking information or opinions from outside sources in preparing to propose the adoption of rules governing geographic deaveraging of telephone rates. The adoption of the rule is authorized by *Minnesota Statutes* Section 237.10 (1986), which allows the Commission to make rules; by *Minnesota Statutes* Section 237.06 (1986) which requires telephone companies to charge just and reasonable rates and to furnish reasonably adequate service and facilities; and by *Minnesota Statutes* Section 237.60, subd. 3 (1987 Supp.) which prohibits telephone companies from charging unreasonably discriminatory rates.

The Commission is considering a rule to require telephone companies to file their rate schedules for interexchange services in units per air mile. The Commission is also considering the following rule language:

> "A telephone company which has elected under the provisions of *Minnesota Statutes,* Sections 237.57 to 237.67 (1987 Supp.) to offer services subject to competition may provide volume discounted interexchange services to customers in particular geographic locations in the state upon a petition which includes a written justification which identifies the good cause for such rate deaveraging or rate discrimination and evidence and testimony showing that the proposed rate design will allow all customers to share equally in the benefits of the competitive activity engaged in by the telephone company."

These rules would require telephone companies to price toll service on a message minute-mile and to price private line service according to mileage bands. Geographic deaveraging would not be permitted unless the telephone company had elected under the alternative regulation law. Nor would deaveraged long distance rates, except volume discount rates, be allowed.

Please comment on the above language and, if appropriate, suggest alternative language.

The Commission requests information and opinions concerning the subject matter of the rule. Interested persons or groups may submit data or views in writing or orally. Written statements or comments should be directed to:

Caroline Robinson
Minnesota Public Utilities Commission
780 American Center Building
150 East Kellogg Boulevard
St. Paul, MN 55101
(612) 296-9617

Oral statements or comments will be received during regular business hours, 8:00 a.m. to 4:30 p.m., Monday through Friday. PLEASE USE THE GEOGRAPHIC DEAVERAGING RULE DOCKET NO. P-999/R-88-208 ON ALL CORRESPONDENCE.

All statements of information and opinion will be accepted until September 1, 1988. Any written materials received by the Commission shall become part of the rulemaking record in the event that the rule is adopted.

Dated: 8 April 1988

Mary Ellen Hennen
Executive Secretary

State Contracts and Advertised Bids

Pursuant to the provisions of Minn. Stat. § 14.10, an agency must make reasonable effort to publicize the availability of any services contract or professional and technical services contract which has an estimated cost of over $2,000.

Department of Administration procedures require that notice of any consultant services contract or professional and technical services contract which has an estimated cost of over $10,000 be printed in the *State Register*. These procedures also require that the following information be included in the notice: name of contact person, agency name and address, description of project and tasks, cost estimate, and final submission date of completed contract proposal. Certain quasi-state agencies are exempted from some of the provisions of this statute.

Commodities contracts with an estimated value of $15,000 or more are listed under the Procurement Division, Department of Administration. All bids are open for 7-10 days before bidding deadline. For bid specifics, time lines, and other general information, contact the appropriate buyers whose initials appear in parentheses next to the commodity for bid, by calling (612) 296-6152.

Department of Administration: Materials Management Division

Contracts and Requisitions Open for Bid

Call 296-2600 for information on a specific bid, or to request a specific bid. Buyer's initials are listed next to each commodity.

Commodity: AV equipment
Contact: Pat
Bid due date at 2pm: April 20
Agency: Public Safety
Deliver to: St. Paul
Requisition #: 07300 48122

Commodity: Aggregates
Contact: P.A.
Bid due date at 2pm: April 21
Agency: Transportation
Deliver to: Brainerd
Requisition #: 79300A

Commodity: Hot Plant Mix
Contact: P.A.
Bid due date at 2pm: April 21
Agency: Transportation
Deliver to: Brainerd
Requisition #: 79300 B

Commodity: Redi-Mix Concrete
Contact: P.A.
Bid due date at 2pm: April 21
Agency: Transportation
Deliver to: Brainerd
Requisition #: 79300RM

Commodity: Aggregates
Contact: P.A.
Bid due date at 2pm: April 21
Agency: Transportation
Deliver to: Morris
Requisition #: 79450A

Commodity: Blasting Sand
Contact: P.A.
Bid due date at 2pm: April 21
Agency: Transportation
Deliver to: Detroit Lakes
Requisition #: 79400SS

Commodity: Lease of IBM 3090-400E
Contact: B.V.
Bid due date at 2pm: April 26
Agency: Administration
Deliver to: St. Paul
Requisition #: 02410 80172

Commodity: Security system
Contact: Pat Anderson
Bid due date at 2pm: April 26
Agency: Community College
Deliver to: Rochester
Requisition #: 27000 50195

Commodity: Software for personal computers
Contact: D.O.
Bid due date at 2pm: April 26
Agency: Various
Deliver to: Various
Requisition #: Price Contract

Commodity: Chevrolet automobile, Chev & GMC truck parts
Contact: D.M.
Bid due date at 2pm: April 26
Agency: Various
Deliver to: Various
Requisition #: Price Contract

Commodity: Print out paper-continuous
Contact: A.W.
Bid due date at 2pm: April 27
Agency: Various
Deliver to: Various
Requisition #: Price Contract

Commodity: Automotive paint & body supplies
Contact: D.M.
Bid due date at 2pm: April 27
Agency: Various
Deliver to: Various
Requisition #: Price Contract

Department of Administration: Printing & Mailing Services

Printing vendors for the following printing contracts must review contract specifications in printing buyers office at 117 University Avenue, Room 134-B, St. Paul, MN.

Commodity: 35M manila envelopes, 9½″x6½″, plus touch & seal flap, 28# kraft, buff, type to set, one-sided
Contact: Printing Buyer's Office
Informal Bid Opening 4:30pm: April 20
Agency: Jobs & Training Dept.
Deliver to: St. Paul
Requisition #: 6475

Commodity: 50M labels, 100 per roll, type to set, one-sided, rounded corners
Contact: Printing Buyer's Office
Informal Bid Opening 4:30pm: April 20
Agency: Central Stores
Deliver to: St. Paul
Requisition #: 6470

Commodity: 100M booklets, 4″x8″, 30 pages, type to set and negs furnished, saddle stitch
Contact: Printing Buyer's Office
Informal Bid Opening 4:30pm: April 20
Agency: Jobs & Training Dept.
Deliver to: St. Paul
Requisition #: 6304

Commodity: 375,250 State Park maps: 56 different maps; 53 are 11″x17″; 3 are 8½″x11″; all 3 color map side, 2 color reverse, negs and keylines furnished, #70 white offset
Contact: Printing Buyer's Office
Bid due date at 2pm: April 22
Agency: Natural Resources Dept.
Deliver to: St. Paul
Requisition #: 6422

Commodity: 4M numbered sets of forms, type to set, negs furnished, 4¼″ × 6½″ overall size, pads of 25
Contact: Printing Buyer's Office
Informal Bid Opening 4:30pm: April 21
Agency: Central Stores
Deliver to: St. Paul
Requisition #: 6500

Commodity: 50M forms, 1-sided, camera ready, 8⅜″ × 3⅔″ with ½″ pinfeed strips
Contact: Printing Buyer's Office
Informal Bid Opening 4:30pm: April 22
Agency: Dept. Revenue
Deliver to: St. Paul
Requisition #: 6535

Commodity: 30M 2-part forms, negs furnished, 1-sided, 50 per pad, 11″ × 17″ detached
Contact: Printing Buyer's Office
Informal Bid Opening 4:30pm: April 22
Agency: Dept. Human Services
Deliver to: St. Paul
Requisition #: 6518

Commodity: 8M books, 1,000 pages, camera ready, 4½″ × 7½″, 6,000 case-bound, 2,000 perfect-bound
Contact: Printing Buyer's Office
Bid due date at 2pm: April 25
Agency: Dept. Transportation
Deliver to: St. Paul
Requisition #: 6432

Minnesota State Arts Board

Notice of Availability of Contract for Writer/Essayist

The Minnesota State Arts Board is seeking a writer to produce two versions of a 1,000 word essay documenting the process of selecting public artwork. The essay subject will be the new Minnesota History Center, and selection of artwork under the Percent for Art in Public Places program administered by the Arts Board. Two versions of the essay will be requested; one for reproduction in the art press and one for the general press.

Articles will appear with photographs in *Arts Board News* and *Minnesota History News* with additional placement in local and regional arts publications.

Project tasks: The writer must attend design presentations and committee meetings on May 10 and 11, 1988. Possible interviews with artists and committee members may be required after this meeting. Background materials on the History Center project and finalist artists will be prepared for the writer prior to the meetings. Two articles should be completed by June 1, 1988.

Contract Requirements: Individual must have writing experience in an anecdotal essay style. Some knowledge of the visual arts and public arts issues is necessary, but it should be noted that a critical essay is not requested. Writers should be able to convey through lively dialogue and rendering of characters the dynamic between the selection committee, artists, and the public.

Contract dates are May 10 to June 1, 1988. Contract amount will not exceed $500.

A professional resume and three writing samples should be sent no later than April 28, 1988 to:

Regina M. Flanagan
Percent for Art in Public Places Program
Minnesota State Arts Board
432 Summit Avenue
Saint Paul, MN 55102
(612) 297-2603

Department of Commerce

Notice of Intent to Extend Deadline and Make Changes in the Request for Proposals for Services to Be Provided to the Minnesota Workers' Compensation Assigned Risk Plan by a Qualified Independent Certified Public Accountant

The Department of Commerce intends to contract with an accounting firm to prepare a consolidated annual financial statement, and to perform an audit of the Plan's business and its servicing carriers on behalf of the Minnesota Workers' Compensation Assigned Risk Plan. The contract period has been revised and will be from May 1, 1988 through June 1, 1989.

Interested parties should obtain the formal Request for Proposals from:

Rose M. Ortiz
Department of Commerce
500 Metro Square Building
St. Paul, Minnesota 55101
(612) 297-4017

Proposals must be submitted by April 20, 1988.

Minnesota Historical Society

Notice of Availability of Contract for Design and Fabrication of History Center Model

The Minnesota Historical Society is seeking individuals and firms experienced in museum quality model building to design and build a presentation model of the new State History Center, designed by HGA, and surrounding site, to be used for fund raising purposes.

These services, which will be provided under contract, are outlined in detail in the Request for Proposal (RFP). The formal RFP may be requested and inquiries directed to: Mark Schwartz, Contract Officer, 1500 Mississippi St., St. Paul, MN 55101, (612) 296-2155. The deadline for submitting completed proposals is the end of the business day (5:00 p.m.) April 27, 1988. Late proposals will not be accepted.

Department of Human Services

Deaf Services Division

Contract Available for Interpreter Referral Services

The Deaf Services Division, Department of Human Services, State of Minnesota, is soliciting proposals for the provision of interpreter referral services used by hearing impaired individuals and a variety of public and private human service agencies.

Activities of the interpreter referral service must include the following:

1. development and maintenance of a comprehensive statewide directory of interpreters who use American Sign Language, Manually Coded English, speechreading, or other visual-gestural/tactile systems to facilitate communication exchanges;

2. filling of interpreter referral requests generated in the public, private and non-profit human service sector, with priority given to state and county human service agencies when coordinating requests;

3. filling of interpreter referral requests by hearing impaired consumers who request interpreters to attend meetings, cultural events, social events, political events, workshops, training or media events.

4. continued development of a statewide computerized interpreter referral system which operates in conjunction with, and in support of, the Deaf Services Division Regional Service Centers for Hearing Impaired People.

Contract activities must also include monitoring of interpreter services, provision of reports in the format specified, and participation in quarterly evaluations of the interpreter referral service.

The Deaf Services Division reserves the right to award the entire amount to one responder. The total amount expended for this activity will not exceed $101,100.00 for fiscal year 1989 (July 1, 1988 through June 30, 1989).

The full text of the Request for Proposals is available on request. Inquiries and responses should be directed to:

JoLynn Blaeser, Program Planner (Acting)
Deaf Services Division
Human Services Building
444 Lafayette Road
St. Paul, MN 55155-3814
612/296-6853

Responses must be received no later than 4:00 p.m. on May 16, 1988.

Late proposals will not be accepted. Award for the FY 89 contract will be May 31, 1988.

Department of Human Services

Family Support Programs

Refugee and Immigrant Assistance Division (RIAD)

Request for Proposal (RFP) for Consultant Services to Develop a Long Range Plan

Notice is hereby given that Refugee & Immigrant Assistance Division is seeking consultant services to facilitate a long range planning process which will result in the development of a strategic long-range (3-5 year) plan including long term priorities, strategies for state administration, appropriate services and funding levels for refugee and immigrant programs. The plan is to be coordinated with any new legislative initiative.

The amount available for this project is up to $10,000.00. The closing date for submission of proposals is April 30, 1988. The division reserves the right not to act on this RFP.

Please direct request for the complete information package, questions and proposals to:

Gus Avenido
Refugee and Immigrant Assistance Division
Minnesota Department of Human Services
444 Lafayette Road
St. Paul, Minnesota 55155-3837
(612) 296-1884

Dated: 11 April 1988

Department of Trade and Economic Development

Minnesota Public Facilities Authority

Notice of Request for Financial Advice Services

The Department of Trade and Economic Development is requesting proposals from qualified financial advisors or qualified financial institutions who wish to work with the Minnesota Public Facilities Authority in the development and structuring of innovative financing programs for the construction of publicly owned waste water treatment works.

The Public Facilities Authority was created by the 1987 Minnesota State Legislature to provide the instrumentality required under Title VI of the Federal Water Quality Act of 1987 for the establishment of a Water Pollution Control Fund or State Revolving Fund (SRF). The Authority shall enter into an agreement with the United States Environmental Protection Agency to receive capitalization grants for the SRF.

The SRF will be established primarily to provide loans to municipalities for the construction of wastewater treatment works and the repayment of these loans will provide a funding source in perpetuity. The Authority will maintain the integrity of the SRF while endeavoring to meet the financial needs of the municipalities.

The Authority's objective is to structure a model(s) utilizing the EPA capitalization grant, the State matching fund, and its bonding authority to maximize the availability of affordable financial assistance to meet the needs of communities required to undertake wastewater treatment improvements and have a sensitivity model to analyze the long term financial position of the SRF.

Proposals will be selected on the basis of: the firms' own experience in designing financing programs as well as embody the firms' most innovative thinking about new financing approaches; familiarity with Title VI of the Clean Water Act, the Minnesota Public Facilities Authority Act as amended; knowledge of wastewater treatment financial capabilities of Minnesota municipalities from very small communities to large cities; ability to provide financial models that address the Authority's abilities; and costs for additional sensitivity analysis at future dates.

Applicants must apply for a Certificate of Compliance from the Minnesota Department of Human Rights. Applications can be obtained by written request from the Minnesota Department of Human Rights, Fifth Floor, Bremer Building, St. Paul, MN 55101. All contract bids must include a statement indicating that the bidder has applied for the certificate.

The services to be provided must be completed and available to the Authority no later than June 30, 1988. A continuing relationship for sensitivity analysis for the PFA's Capitalization Grant applications and long term forecasting of the SRF will be required at the request of the Authority. The deadline for receipt of proposals is 4:00 p.m. on May 2, 1988. No late proposals will be accepted.

Proposals should be addressed to:

Terry Kuhlman
Executive Director of the Public Facilities Authority
Minnesota Department of Trade and Economic Development
900 American Center Building
150 East Kellogg Boulevard
St. Paul, MN 55101
612/296-4704

Department of Trade and Economic Development

Minnesota Office of Tourism

Request for Proposals to Study I-90 Tourism Development Potential

I. Purpose

The primary purpose of this study is to collect, organize and make available basic data needed in the analysis of proposals to expand or develop tourism businesses that draw customers from the traffic on Interstate 90 in southern Minnesota.

II. Parties

This study will be conducted by a consultant under contract with the Commissioner of Trade and Economic Development in accordance with the authority contained in *Minnesota Statutes* 1986 116J.58 Subd. 3 and 116J.615 Subd. 1(7). While the contract is between these two parties only, the Director of the Office of Tourism may invite interested representatives of communities or the tourism industry to offer advice and assistance in the process of selecting a consultant and in the execution of the study.

III. Background

The tourism resources of Minnesota are often perceived to be located in the northern and western regions of the state. However, significant natural, historic, cultural and entrepreneurial resources are believed to be available in the southern region, especially along the corridor served by Interstate Highway 90, to now expand the tourism industry in the area. Many communities and developers have suggested that the state support their efforts to capture this market. Information supporting these requests is seldom conclusive and often lacks critically needed data that might secure financial support for the venture.

The state cannot justify support of projects without this data nor can it encourage support by others even when projects appear to be economically feasible. To allow positive intervention in this type of project, this study is being conducted to develop needed data so that the state can proceed with positive interventions in support of economically feasible projects.

IV. Scope of Project

The scope of this project is to define geographic and economic parameters of the study, prepare inventory and research instruments, collect data, organize and analyze data, draft a report, present and defend the draft, and write a final report incorporating ideas developed in defense of the draft. The final report is to be submitted by the contractor before Nov. 1, 1988.

V. Deliverables

The contractor is expected to deliver certain valuables to the state and to receive payment upon acceptance of these delivered items. Deliverables are to be proposed by the contractor and might include:

A. A project plan including anticipated dates of execution and the anticipated billing for each element of the plan. Attention should be given to which elements are delivered during each of the state's fiscal years.

B. Survey and inventory instruments and the designed analysis for the data.

C. Completed survey and inventory raw data.

D. Computer tapes, discs or other media containing the raw data.

E. Schedules of appointments of interviews and sampling locations and times.

F. Ten copies of the draft report.

G. One camera ready and ten photocopies of the final report.

H. Photostats, 35mm slides, computer discs or other reproducible originals of graphics contained in the final report.

I. Draft public presentations, news releases and executive summaries of the final report.

VI. Project Tasks

The contractor will be required to complete the following tasks:

A. Inventory all existing and proposed tourist attractions, tourist service businesses, lodging, eating, and entertainment businesses which might serve the travellers in the area.

B. Identify the motivational factors that draw or might draw tourists to the area and which could be developed to capture additional tourism business for the area.

C. Determine the origins and destination objectives of travelers in the region including travelers along interstate 90 and intersecting north/south traffic. Determine the seasonality of leisure travel in the area.

D. Collect and compile data concerning proposed developments in Minnesota and adjoining states that might alter existing traffic patterns or which might compete for or enhance tourist trade in the area.

E. Inventory both developed and undeveloped natural, historic, cultural, financial, managerial, labor, capital and attraction resources in the area.

F. Identify and assess tourism development interest among community and business leaders in the area.

G. Determine and describe the overall marketability of the area in comparison with other competing tourism markets. This aspect of the study should identify characteristics of the area that might be developed or further developed in order to motivate travelers to leave the Interstate highways and spend leisure time in the area.

H. Collect and analyze available data concerning the present trends of tourism activities in the area.

I. Recommend actions the state might take under existing statutes and programs to better support the development of economically feasible tourism resources in the area.

J. Research and suggest new avenues and programs through which the state might better support development of economically beneficial tourism resources of the area.

VII. Proposal Format

Each proposer should submit a proposal containing the following elements:

A. A statement of the proposer's understanding of the project.

B. Identification of the project elements as envisioned by the proposer.

C. A description of the methodology to be used in completing each element of the project.

D. A work plan including dates for initiating, conducting and completing each of the project elements.

E. A project budget.

F. A proposed plan for billing the state for services performed. At least fifty and preferably sixty percent of the work should be accomplished by June 30, 1988.

G. A description of how the proposer would make particular effort to obtain and incorporate information from interested community and business leaders in the area.

H. Biographies of the professional staff individuals the proposer would use to conduct the project.

I. Descriptions of similar projects performed for other clients, especially projects relating to tourism, economic development and public-private cooperative efforts.

VIII. Other Project Information

Other information that will assist in the development of proposals is as follows:

A. This project is under the direction of the Director of the Minnesota Office of Tourism who has assigned Richard Haskett, Manager of Tourism Development, to act as the project manager. No other employee of the state is authorized to discuss the project with potential contractors. The project manager may be reached at:

Richard Haskett
I90 Tourism Development Project
Minnesota Office of Tourism
375 Jackson Street
250 Skyway Level
St. Paul, MN 55101
Telephone 612/296-1880
Telefax 612/296-7095

B. This request for bids does not commit the state to award a contract, to pay any costs in the preparation of a proposal in response to this request or to treat as confidential any information received as part of a proposal received. The state reserves the right to accept or reject any or all bids, to negotiate with any qualified source or to cancel in part or in entirety this request for proposals. The project manager may negotiate with any proposer and may incorporate elements from more than one proposal or from other sources in the contract document. The state also reserves the right to waive irregularities in submitted proposals and to negotiate a contract which appears to meet the best interests of the state.

C. Proposals are to be submitted to the project manager identified above not later than 4:30 p.m. May 9, 1988.

D. The total cost of the project is expected not to exceed $50,000.

E. Time schedule for the project:

May 9	Deadline for receiving proposals
May 18	Proposal evaluations completed
May 31	Start date of project
October 14	Draft final report submitted
November 1	Final report submitted

F. The successful contractor may be required to submit evidence of compliance with equal opportunity employment and worker compensation insurance before entering a contract.

G. The Office of Tourism will make available to the contractor the following:

1. Inventories of existing accommodations in the study area.
2. Limited information on origin and destination of visitors.
3. Available information on tourism businesses located in the area.

4. Support in securing available information from the Minnesota Department of Transportation concerning traffic counts and visitors to state Travel Information Centers located in the area.

H. All data, documents, files, tapes, discs and information of whatever source, and in whatever format obtained or developed in the course of this project is the sole property of the State of Minnesota and may not be used or distributed without the written consent of the project manager. No right for the contractor to release or to publish such information is implied or expressly granted.

Dated: 28 March 1988

David J. Speer, Commissioner
Dept. of Trade & Economic Development

Department of Transportation

Surveying and Mapping

Notice of Availability of Contract for Photogrammetric Services Fiscal Year 1989 (July 1, 1988 to June 30, 1989)

The Minnesota Department of Transportation desires an aerial surveys firm or firms to provide the following photogrammetric services conforming to Mn/DOT specifications:

1. Aerial Vertical Photography

Provide negatives taken by the contractor(s) using a precision aerial camera. The negatives shall be suitable for printing photographs and transparencies and for use in the State's photogrammetric instruments for analytical aerial triangulation and map compilation. The state may call for the use of panchromatic, color negatives or infrared color emulsions in obtaining the photography.

2. Aerial Oblique Photography

Provide negatives taken by the contractor(s) suitable for printing photography for illustrative purposes.

3. Photographic Laboratory Services

Provide, from aerial negatives, rectified, ratioed and controlled photographic enlargements and mosaics, 9½″ x 9½″ diapositives on glass or film suitable for photogrammetric compilation of topographic mapping and screened photographic film positives from mosaic negatives.

4. Map Compilation

Provide map compilation by Wild BCl Analytical Stereoplotter or equivalent type instrument for the compilation of topographic maps and/or photogrammetric cross-sections.

All Topographic mapping must be provided in digital format compatible with existing input formats for the Intergraph interactive graphic drafting system in use in the Department.

The State anticipates that the total value of work ordered will not exceed $240,000.00. The state reserves the option to enter into agreements with more than one firm.

Firms desiring consideration shall express their interest and submit their Federal Forms 254 and 255 on or before May 11, 1988.

This is not a request for proposal. Send your response to:

Minnesota Department of Transportation
Surveying and Mapping Section
Room 711 Transportation Building
St. Paul, Minnesota 55155

Minnesota Waste Management Board

Notice of Request for Proposal (RFP) for Contractual Services to Process Tires Generated through the Abatement of Waste Tire Dumps

The Minnesota Waste Management Board (WMB) is seeking proposals from qualified waste tire processors to accept, unload, and process waste tires. The waste tires will be generated through the abatement of waste tire dumps located in Minnesota. The WMB will pay the selected processor a fee for the processing of the waste tires into a marketable product.

The WMB has documented that approximately 5 million waste tires are currently stockpiled in Minnesota waste tire dumps. The WMB also believes there may be as many as 5 million waste tires in additional tire dumps.

The RFP document may be obtained from and other inquiries should be directed to:

Andrew Ronchak
Minnesota Waste Management Board
1350 Energy Lane
St. Paul, Minnesota 55108
612/649-5776

The deadline for receipt of completed proposals is 5:00 p.m. on Wednesday, June 1, 1988. Proposals should be submitted to the attention of the above WMB contact person. Late submittals will not be accepted.

Minnesota Waste Management Board

Notice of Request for Proposals on Facilities to Recycle Waste Plastic

The Minnesota Waste Management Board (WMB) is requesting that developers interested in constructing and operating facilities in Minnesota to recycle waste plastic submit proposals.

A response to this Request for Proposals (RFP) will serve as an application for grants to study the feasibility and method of developing and operating the proposed facility. Responses to the RFP should include information regarding existing operations and the design and economics of the proposed facility. The WMB will evaluate responses and award grants by the end of July.

Scope of Project

The WMB will provide funding to conduct the studies and planning deemed necessary by the proposer to develop a facility that will serve as a market for plastic collected from industrial and residential sources. The facility should implement processes that produce regrind, extruded plastic products or other products for sale to industrial or consumer markets.

Deadline

Copies of the Request for Proposals are available by contacting the following:

Tom Couling
Minnesota Waste Management Board
1350 Energy Lane
St. Paul, MN 55108
Telephone: (612) 649-5771

Responses should be submitted to the WMB no later than 4:30 p.m., Tuesday, May 31, 1988.

Minnesota Waste Management Board

Notice of Request for Proposals on Probabilistic Failure Analysis of a Hazardous Waste Stabilization and Containment Facility

The Minnesota Waste Management Board (WMB), an agency of the State of Minnesota, requests the submission of proposals to prepare a probabilistic failure analysis of a hazardous waste stabilization and containment facility scheduled to be built in Minnesota. The stabilization and containment facility will treat and contain approximately 16,000 tons per year of inorganic hazardous waste at a location selected under a voluntary siting program (see *Minnesota Statutes* Section 115A.175). After appropriate pretreatment of the waste received, a cement-based stabilization process will be used to treat the waste. The goal of this pretreatment and stabilization process is to render the waste regulatorily nonhazardous (delisted under the requirements of U.S. Code, Title 42, Section 6921 and any federal and state delisting rules). The stabilized material will then be contained in an above-grade, RCRA Subtitle C (hazardous waste)-permitted containment cell, with necessary liners and leachate collection systems.

Scope and Purpose of Project

The WMB seeks proposals from qualified firms to conduct a probabilistic failure analysis and determine the potential for sudden and/or non-sudden releases from the facility to the air, soil, surface water, or groundwater. Specific experience in the evaluation of the potential for releases from treatment facilities and from above-grade containment facilities is desired, as well as expertise in assessing potential remedial action response costs.

The failure analysis would be used for the following purposes:

1. As a basis to examine appropriate financial assurance levels for the facility,

2. To provide information necessary prior to conducting specific site risk assessments for the facility during the Environmental Impact Statement (EIS) preparation, and

3. To provide information to citizens in potential host counties on the relative risks posed at the facility.

Response Information

Copies of the Request for Proposals are available from the following:

Dan Reinke
Minnesota Waste Management Board
1350 Energy Lane
St. Paul, MN 55108
Telephone: (612) 649-5790

Responses should be submitted to the WMB no later than 4:30 p.m., Monday, May 9, 1988.

State Grants

In addition to requests by state agencies for technical/professional services (published in the State Contracts section), the *State Register* also publishes notices about grant funds available through any agency or branch of state government. Although some grant programs specifically require printing in a statewide publication such as the *State Register*, there is no requirement for publication in the *State Register* itself.

Agencies are encouraged to publish grant notices, and to provide financial estimates as well as sufficient time for interested parties to respond.

Department of Jobs and Training

Division of Rehabilitation Services
Minnesota Supported Employment Project

Availability of Funds to Address and Implement Issues of Conversion and Expansion to Supported Employment Services for Persons with Severe Disabilities

The Minnesota Supported Employment Project announces the availability of grant funding to assist communities who have already made a substantial commitment to convert to supported employment services. The purpose of these grants is to assist the applicant to (re)organize and develop further its community's capacity to provide supported employment services to persons with severe disabilities for whom employment without long-term, on-going support on the job site would be considered unlikely. Applicants must focus on the use of community development and community planning models to enhance interagency service delivery for supported employment.

Any public or private non-profit agency, organization or corporation (able to qualify under *Minnesota Statutes*, Chapter 317, or Section 501 (c)(3) of the Internal Revenue Code) with the authority and ability to bring about desirable outcomes for the target population is eligible to apply.

An approximate total of $150,000 is available for projects for the period from September 1, 1988, through August 31, 1989, with average grant awards anticipated to be from $25,000 to $35,000.

Copies of the Request for Proposals for this project are available from:

Minnesota Supported Employment Project
Division of Rehabilitation Services
390 North Robert Street, Fifth Floor
St. Paul, Minnesota 55101
ATTN: Kim Rezek

Proposals must be received by 4:30 p.m. on Monday, May 23, 1988.

Department of Jobs and Training

Notice of Availability of Funds for Independent Living Rehabilitation Services

The Department of Jobs and Training, Division of Rehabilitation Services, Independent Living Program, is accepting applications for grants to establish independent living services.

The Division will award up to eight (8) grants in the amount of five to seven thousand dollars each on or about June 1, 1988.

Eligible applicant organizations may submit applications for grants. Eligible applicant organizations are private, non-profit consumer governed corporations, whose primary purpose is to serve people with disabilities by increasing their independence in the home, family or community.

Proposals must encompass independent living rehabilitation services as described in 1986 *Minnesota Statutes*, section 129A.10.

Priority consideration will be given to applications which address the needs of people with disabilities in poverty areas and of people with disabilities who are American Indian.

Applications must demonstrate that: (1) the proposed project has a reasonable expectation of success; (2) the applicant organization is a legally incorporated non-profit, tax exempt entity in Minnesota; and (3) the project will increase the independence of the greatest number of people with disabilities. The postmarked deadline for applications is 4:30 p.m. May 13, 1988. Request for proposal applications can be obtained from Scott Rostron, Independent Living Program, Division of Rehabilitation Services, 390 North Robert Street, St. Paul, Minnesota 55101 or call (612) 296-5085.

Supreme Court Decisions

Decisions Filed 15 April 1988

C4-87-350 State of Minnesota, petitioner, Appellant, v. Brian Eugene Dana. Court of Appeals.

Trial court properly admitted out-of-court statements by child sex abuse victims pursuant to *Minnesota Statutes* 595.02, subd. 3 (1986).

Reversed and judgment of conviction reinstated. Amdahl, C.J.

Dissenting, Kelley J. and Popovich, J.

C7-87-1606 State of Minnesota v. James Richard Clobes, Appellant. Court of Appeals.

Prosecutor's failure to disclose evidence that might have been used to impeach key prosecution witness does not justify award of new trial where, as here, there is no reasonable probability that the outcome of the trial would have been different if the prosecutor had disclosed the evidence to the defense.

Announcements

MN Sentencing Guidelines Commission: A meeting is scheduled for Thursday 21 April 1988 at 6:30 p.m. in the Buffington Room, Holiday Inn—Capitol, 161 St. Anthony, St. Paul, with all subcommittees of the commission meeting at 4:30 p.m. Subcommittee reports will be heard on aggravated durational departures, mitigated dispositional departures, and nonimprisonment guidelines. A legislative update will cover new or amended felonies and other relevant legislation. Call (612) 296-0144.

Forestry Fair Scheduled: The first Minnesota Forestry Fair will be held Friday and Saturday, April 22-23, at the DNR Building and Natural Resources Park at the State Fairgrounds in St. Paul. The fair is open to the public free of charge, between 9 a.m. and 6 p.m. Scheduled events include horse logging, sawmill and fire fighting demonstrations. Noted folklorist John Berquist will sing and tell of early logging days in Minnesota. Mini-seminars include outdoor photography, wild edible fruits, woodworking for wildlife, producing your own maple syrup and caring for your backyard trees. Naturalist Jim Gilbert will present a program on "Nature's Calendar." Snowshoe-making, maple-syruping, paper-making and dried flower arranging will also be available in the many exhibits and live demonstrations. Experts will be on hand to answer questions on tree care, diseases, and other forestry-related problems. Exhibits will include woodworking equipment, logging equipment, wood products for the hobbyist, crafts, nurseries, and musical instrument makers, in addition to many nonprofit and educational displays. Many exhibitors will have merchandise for sale. For more information, contact: Meg Hanisch, Forestry Information (612) 296-5958.

Educational Videodisc Directory: Minnesota Educational Computing Corporation (MECC) has just released its third edition of *Videodiscs for Education: A Directory*. Schools making use of videodisc technology will find this newly updated directory an extremely helpful tool. Organized by subject area, this directory lists more than 360 videodiscs specifically designed for education and training. Each entry includes a brief description and cites appropriate grade levels, necessary hardware, accompanying materials, contact address and phone number, and price. The new edition also contains two new sections: a list of authoring and presenting systems under $2,000 and an alphabetical listing of producers and publishers. The third edition of the directory has been expanded more than 50% over the second edition and costs just $10. If you want to order a copy of this valuable resource, please write to MECC or call MECC Customer Services at (612) 481-3527. In Canada call (800) 263-9677.

Federal Fish/Wildlife Funds to DNR: The U.S. Secretary of the Interior recently announced that Minnesota will receive an estimated $8.7 million in federal aid funds, to be used exclusively for sport fish and wildlife restoration in Fiscal Year 1988. The total funding is the state's share of an unprecedented, $265 million nationwide financing of these programs. Last year, Minnesota received an estimated $8 million in funding from Washington D.C. for the programs. Of the amount received for fish restoration, the state will receive about $1.9 million in basic funding and another $3.69 million in expanded funding. Much of the fisheries funding comes from excise taxes on fishing equipment. Legislation approved in 1984 also created the "Wallop-Breaux" expansion program, which increased the source of funding to include a share of motorboat fuel taxes, import taxes on fishing equipment and pleasure boats, and other excise taxes. Some of the projects supported by wildlife funds include restoration of whitetail deer and wild turkey and several once-threatened species, such as the wood duck, which once faced extinction. Some of the national fisheries projects include acquisition development or improvement of public access facilities, fish habitat improvements and fisheries research. Under the Wallop-Breaux Amendment, states are also required to obligate at least 10 percent of their annual apportionment for motorboat access, and another 10 percent may be used for aquatic resources education. For more information, contact: Jane Norris, Federal Aid Coordinator (612) 296-0598.

Higher Education Enrollment: Minnesota ranks fourth in the nation in its higher education enrollment relative to its population for the 1986-87 academic year, according to Research Associates of Washington. Research Associates defines this rate as the number of full-time equivalent students enrolled at public four-year and two-year institutions per 1,000 state residents. In an overall view of higher education, this rate is one significant measure of the "accessibility and attractiveness of the state's public system to residents," according to the study. Interestingly, while the number of high school graduates has been declining steadily due to shrinking numbers in this age group, Minnesota's higher education enrollment rate grew five and one-half percent since 1977-78. For the United States during this time, the rate dropped four and one-half percent. For the most recent one year period, Minnesota's rate grew two percent, while three of the other five top states experienced declines in this measure. Incorporated in this trend are results from a fall 1987 survey showing Minnesota's public community college enrollment increased 10.9 percent from the fall of 1986 to the fall of 1987. This increase was the third largest in the nation. Many other factors have also contributed to a high rate of higher education enrollment relative to the number of state residents: there has been an increase in the number of older students; a higher percentage of high school graduates are going on to higher education; the number of out-of-state students has increased; there has been an effect from the post-secondary enrollment option; and the number of part-time students has increased.

Food Inspection Cooperative Agreement: The Human Services Board of Faribault, Martin and Watonwan Counties has become the 17th local government agency to enter into a cooperative agreement with the Minnesota Department of Agriculture. This agreement will eliminate duplication of inspections and licensing while intensifying consumer protection services on all retail food distribution, according to Tom Masso, Director of the Food Inspection Division of the Minnesota Department of Agriculture. The cooperative agreement also provides for swift and effective response to emergency situations such as food product recalls, foodborne illness investigations, handling of consumer complaints and inquiries, as well as the training of food inspection personnel.



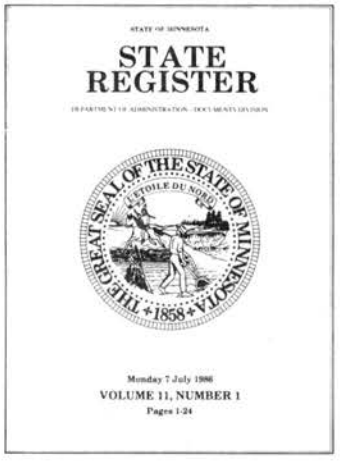
Charitable Gambling Directory

A complete listing in alphabetical order of organizations licensed for charitable gambling in the state. Includes the name, address, zip code and name of contact person. 64 pages. Code #1-11. $20.00.

CHARITABLE GAMBLING RULES, governing the conduct of charitable gambling events like bingo. Code #3-3, $5.00.

TO ORDER: Send to Minnesota Documents Division, 117 University Avenue, St. Paul, MN 55155. (612) 297-3000, or toll-free in Minnesota: 1-800-652-9747 and ask for "DOCUMENTS." Please include 6% sales tax, and $1.50 postage and handling. Prepayment required. Please include daytime phone. VISA/MasterCard orders accepted over phone.

Publication editors: As a public service, please reprint this ad in your publication as is, reduced, enlarged, or redesigned to suit your format. Thank you.



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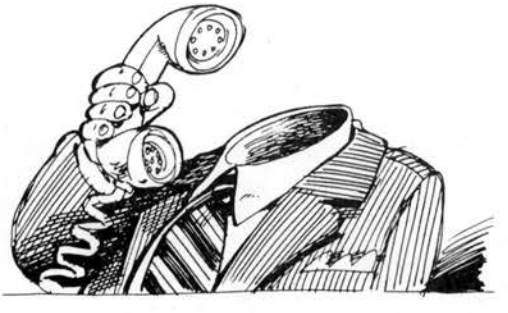
1987 & 1988 State of Minnesota Telephone Directory. Get a direct line to the persons you want to speak to. Contains names, numbers, and agencies in the executive, legislative and judicial branches of state government. Four sections give listings alphabetically name, agency, Minnesota region, plus an index for cross referencing. Over 250 pages, paperback, 8½"x11". Code #1-87, $10.95

U.S. Government Manual 1987-88. Contains comprehensive information on federal agencies of the legislative, judicial and executive branches of government. Each agency description includes address, phone number, a list of principal officials, a summary of each agency's purpose and programs and activities. Paperback 940 pages with appendices and index. Code #16-46. $20.00



TO ORDER: Send to Minnesota Documents Division, 117 University Avenue, St. Paul, MN 55155. (612) 297-3000, or toll-free in Minnesota: 1-800-652-9747 and ask for "Documents." Make checks payable to the State of Minnesota. Please include 6% sales tax, and $1.50 for postage and handling. Prepayment required. Please include daytime phone. VISA/MasterCard orders accepted over phone.

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Department of Commerce Regulated Profession Publications

Banking Laws 1986. Complete text of state law governing banks, trust companies and other financial institutions. Code #2-76 $29.95

Business and Nonprofit Corporation Act 1987. Laws governing establishment and conduct of for-profit and non-profit corporations in Minnesota. Chapters 80B, 302A, 317. Code #2-87 $10.00

Fair Labor Standards Act 1987. Minimum wage and overtime compensation standards for employers. Chapter 177. Code #2-75 $5.00

Insurance Laws 1987. A compendium of laws applicable to the insurance business. Includes chapters on company and individual agents licensing requirements. Code #2-1, $20.00

Insurance Rules 1987. Essential licensing information for businesses and agents. Includes standards on policies, practices, marketing and continuing education. Code #3-1 $15.00

Notary Public Laws 1987. Statutory requirements regarding the oath of office, necessary bond, and taking of depositions. Includes an explanation of the term of the office and procedures for removal from office. Code #2-13 $4.00

Real Estate Laws 1987. Complete and up-to-date extract from the 1986 Minnesota Statutes. Code #2-92 $6.00

Real Estate Rules 1987. Contains all education and licensing requirements for agents. Chapters 2800.2805, and 2810. Code #3-99 $8.00

Securities Laws 1987. Governs the activities of broker/dealers, agents or investment advisors. Chapter 80A. Code #2-12 $6.00

Securities Rules 1987. Subjects include standards of conduct, equity securities, investment companies and more. Chapter 2875. Code #3-5 $13.00

Banking Rules 1987. New rules are expected in early fall '87. Call then for more information. Code #3-81, $6.00

Uniform Commercial Code 1986. Chapter 336, U.S. laws governing trade, including contracts, title, payment, warranties, performance and liability. Code #2-2 $10.00

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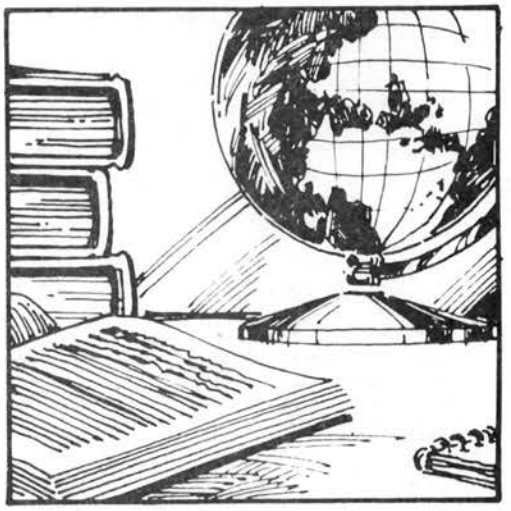

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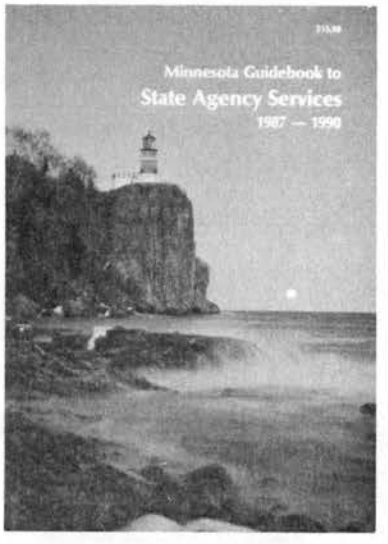

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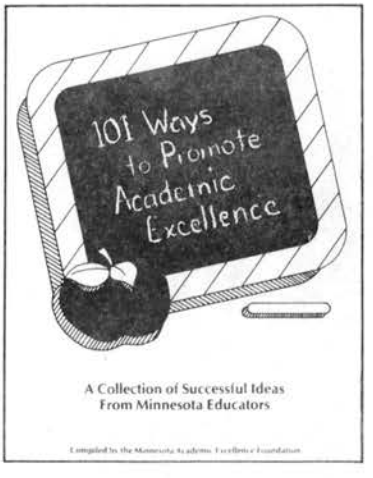

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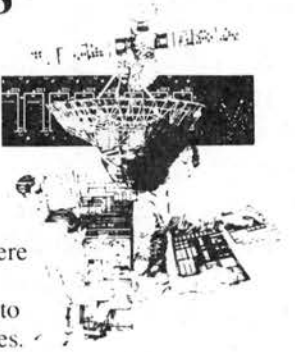

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Pollution Control Agency
Water Quality Division

Adopted Permanent Rules Relating to Clean Water Partnership

Rules as Adopted

CHAPTER 7076
MINNESOTA POLLUTION CONTROL AGENCY
WATER QUALITY DIVISION
CLEAN WATER PARTNERSHIP GRANTS

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.

7076.0110 DEFINITIONS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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7076.0120 AVAILABLE ASSISTANCE.

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

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

7076.0130 ELIGIBILITY CRITERIA.

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

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

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

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

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

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

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B. fiscal and management activities including report preparation;

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

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

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

F. development and implementation of official controls;

G. acquisition of easements and property; and

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

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

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

B. operation and maintenance of best management practices;

C. activities regulated by the National Pollutant Discharge Elimination System permit program, parts 7001.1000 to 7001.1100; the State Disposal System permit program; the Petroleum Tank Release Clean-up 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;

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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.

7076.0140 NOTICE OF GRANT AVAILABILITY.

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

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

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

7076.0150 GRANT APPLICATION.

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

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

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

B. written documentation that the project sponsor has

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

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

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

E. the amount of grant funding requested;

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

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

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

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

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

(4) a schedule containing milestones for project development;

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

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

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

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

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

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

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

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

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

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

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

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

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

7076.0160 REJECTION OF GRANT APPLICATION.

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

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A. an ineligible applicant;

B. ineligible costs;

C. a late submittal; or

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

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

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

7076.0170 PROJECT RANKING.

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

Subp. 2. **Priority points for project development grant**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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government for water quality protection and improvement;

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

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

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

7076.0180 ALLOCATION OF FUNDING.

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

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

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

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

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

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

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

7076.0190 SELECTION OF PROJECTS FOR GRANT AWARD.

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

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

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

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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.

7076.0200 PROJECT CONTINUATION GRANT AMENDMENT.

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

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

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

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

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

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grant amendment.

7076.0210 GRANT CONDITIONS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7076.0220 GRANT CONTRACT.

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

A. establish the terms and conditions of the grant;

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

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

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

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prescribed by the agency; and

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

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

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

7076.0230 MONITORING PLAN.

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

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

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

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

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

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

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

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

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

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

C. current data or information for the following:

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

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

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

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

(d) a summary of available fisheries information;

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

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description shall include the following:

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

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

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

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

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

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

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

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

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

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

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

A. a map of the project area;

B. an aerial photo of the project area;

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

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

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

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

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

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

I. soil:

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

(2) a map of erosion-prone soils;

J. land use:

(1) existing and future land uses;

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

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

(4) irrigated acreage;

(5) domestic animal density and feedlots;

(6) on-site wastewater treatment systems;

(7) existing management practices;

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(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;

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

(15) areas delineated as floodplains;

(16) areas with known flooding problems;

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

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

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

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

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

(22) population characteristics; and

(23) a summary of recreational land uses;

K. precipitation:

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

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

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

(4) a summary of precipitation information for

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the project area; and

L. hydrology:

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

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

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

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

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

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

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

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

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

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

C. the identification of project objectives in terms of:

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

(2) economic, recreational, and health factors;

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

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

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

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

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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 nonpoint source pollution;

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

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

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

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

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

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

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

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

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.

7076.0280 GRANT PAYMENTS.

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

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

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

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

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

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.

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Office of the Revisor of Statutes

Administrative Rules

TITLE: Adopted Permanent Rules Relating to Clean Water Partnership

AGENCY: Pollution Control Agency

MINNESOTA RULES: Chapter 7076

The attached rules are approved for filing with the Secretary of State

David S. Niss
Assistant Revisor

Pollution Control Agency
Water Quality Division

Adopted Permanent Rules Relating to Clean Water Partnership

Rules as Adopted

CHAPTER 7076
MINNESOTA POLLUTION CONTROL AGENCY
WATER QUALITY DIVISION
CLEAN WATER PARTNERSHIP GRANTS

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.

7076.0110 DEFINITIONS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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7076.0120 AVAILABLE ASSISTANCE.

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

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

7076.0130 ELIGIBILITY CRITERIA.

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

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

B. the authority to generate cash revenues and in-kind contributions for the local share of a project; and

C. the authority to adopt, implement, and enforce official controls.

Subp. 2. **Eligible costs.** Project costs are eligible for state matching grants if the costs are reasonable and necessary and allocable for the development of a diagnostic study and implementation plan, or for the implementation of the plan, and if the costs are related to any of the following activities:

A. water quality monitoring, water resource and project area data and information collection, data and information analysis and assessment, and related tasks;

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B. fiscal and management activities including report preparation;

C. selection, design, layout, and installation of best management practices;

D. development, review, and inspection of installation, operation, and maintenance procedures for best management practices;

E. development and implementation of public education materials and activities;

F. development and implementation of official controls;

G. acquisition of easements and property; and

H. other activities determined by the agency or established by federal regulation to be necessary to develop and implement the project.

Subp. 3. **Ineligible costs.** Ineligible costs include any costs that are not related to the activities in subpart 2. In addition, the following costs are ineligible whether or not they relate to the activities in subpart 2:

A. installation of best management practices before the grant award;

B. operation and maintenance of best management practices;

C. activities regulated by the National Pollutant Discharge Elimination System permit program, parts 7001.1000 to 7001.1100; the State Disposal System permit program; the Petroleum Tank Release Clean-up 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;

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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.

7076.0140 NOTICE OF GRANT AVAILABILITY.

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Subpart 1. **Notice.** The agency will publish in the State Register a notice that applications for project development grants and project implementation grants will be accepted whenever the agency determines that funds are available to award the grants. The notice will contain a deadline for application submittal, which must be no less than 60 days from the date of publication.

Subp. 2. **Notification list.** The agency shall maintain a list of those local governmental bodies that wish to be notified of grant application periods. Any local governmental body that wishes to be placed on the list shall notify the agency by writing to the director of the public information office. Whenever the agency publishes notice in the State Register, the agency shall mail notice of the grant application period to those local governmental bodies on the list.

Subp. 3. **Grant application periods.** The agency may establish a grant application period from time to time but there must be at least one application period each calendar year if funds are available.

7076.0150 GRANT APPLICATION.

Subpart 1. **General requirements.** The grant application must be submitted by the local unit of government that will be the project sponsor. A grant application must be submitted in a timely fashion to be considered. The grant application must be submitted on a form provided by the agency and must contain the information required in the form and by this part.

Subp. 2. **Project development grant.** An applicant submitting an application for a project development grant must submit the following information:

A. a resolution by the local unit of government that will be the project sponsor, authorizing the filing of the application and designating an official authorized to execute the grant application, the grant contract, and other related project documents;

B. written documentation that the project sponsor has

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consulted with soil and water conservation districts and watershed districts in the project area, in preparing the grant application;

C. identification of agencies and organizations that will be involved in project development;

D. resolutions from each participating local unit of government which identifies their role in project development and identification of their contribution to the local share of project development costs;

E. the amount of grant funding requested;

F. a list identifying the amount, type, and source of the local share;

G. a work plan and schedule that contain the following:

(1) the identification of each water of the state that will be affected by the project;

(2) a description of the existing or potential surface and ground water problems that are to be addressed in the project;

(3) a work plan listing the activities that the grant would make possible; and

(4) a schedule containing milestones for project development;

H. a local water plan that provides an inventory of existing physical and hydrologic information on the project area, a general identification of water quality problems, and goals for resource use, and demonstrates a local commitment to water quality protection or improvements; and

I. documents required by state or federal statutes, rules, and regulations.

Subp. 3. **Project implementation grant.** An applicant submitting an application for a project implementation grant shall submit the following information:

A. a resolution by the local unit of government that will be the project sponsor, authorizing the filing of the application and designating an official authorized to execute

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the grant application, the grant contract, and other related project documents;

B. written documentation that the project sponsor has consulted with soil and water conservation districts and watershed districts in the project area, in preparing the grant application;

C. a diagnostic study and implementation plan approved under part 7076.0260, or an equivalent study and plan that addresses the requirements of a diagnostic study and implementation plan and that has been approved under part 7076.0260 and which contains a local water plan that provides an inventory of existing physical and hydrologic information on the project area, a general identification of water quality problems, and goals for resource use, and demonstrates a local commitment to water quality protection or improvements;

D. resolutions from each participating local unit of government that identify their role in project implementation and their contribution to the local share of project implementation costs;

E. a detailed work plan and schedule for project implementation during the grant period;

F. a detailed budget for the grant period including the identification of the amount requested in the grant;

G. a list identifying the amount, type, and source of the local share;

H. a description of the work and the budget for project implementation beyond the grant period, including an indication of whether the project sponsor anticipates applying for a project continuation grant amendment; and

I. documents required by state or federal statutes, rules, and regulations.

7076.0160 REJECTION OF GRANT APPLICATION.

Subpart 1. **Grounds.** An application for a project development grant or a project implementation grant ~~may~~ shall be rejected by the commissioner for the following reasons:

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A. an ineligible applicant;

B. ineligible costs;

C. a late submittal; or

D. failure to comply with any requirement of statute or rule.

Subp. 2. **Procedure.** The commissioner shall review each grant application within 30 days after the deadline for application submittal. The commissioner shall notify each rejected grant applicant of the rejection of its application and the reasons for the rejection.

Subp. 3. **Effect of rejection.** A grant applicant whose application is rejected for a reason other than for late submittal has 14 days from receipt of the notice of rejection to correct any deficiencies, if correction is possible. If the application is corrected within the 14 days, the application must be accepted and the project must be ranked with other approved grant applications. An application that cannot be or is not corrected must not be further considered. A grant applicant whose application is rejected and not corrected must reapply in a subsequent application period in order to be considered for a grant.

7076.0170 PROJECT RANKING.

Subpart 1. **Process of ranking.** Upon completion of the commissioner's review of the grant applications for acceptability, the agency shall rank the acceptable grant applications in order of priority. Each project for which an acceptable grant application has been submitted must be awarded the number of priority points the project is entitled to under subparts 2 and 3. The project with the highest number of priority points will be given the highest priority. All projects will be given a ranking depending on the number of points awarded. The project development grant applications must be ranked separately from the project implementation grant applications.

Subp. 2. **Priority points for project development grant**

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applications. The following criteria must be used to determine the number of priority points ~~a-project-for-which-a-project development-grant-application-has-been-submitted-is-entitled~~ to be awarded in the evaluation of each project development grant application. The agency shall award each project between zero and ten points under each of the following criteria, depending on how well the project satisfies the criterion. The number of points awarded under each criterion must be added together to determine the project's total point value. This total number must be used to determine the project's overall ranking and priority. The criteria are as follows:

A. the extent to which the proposed project demonstrates a high potential for project success based on community support and involvement as well as participation, coordination, and cooperation of federal, state, and local agencies and units of government for water quality protection and improvement;

B. the extent to which the proposed project takes place where local units of government have adopted and implemented authorities or official controls to abate or prevent water pollution from nonpoint sources;

C. the extent to which the water of concern is identified as a priority water in the local water plan;

D. the extent to which the proposed project affects waters identified in the statewide resource assessment conducted under Minnesota Statutes, section 115.095, as waters that could not be expected to attain or maintain compliance with applicable water quality standards or goals without additional control of nonpoint sources;

E. the extent to which the project demonstrates a likelihood of transferability to similar resources;

F. the extent to which the project is of a size and scale to promote successful project management and water quality protection and improvement; and

G. the priority placed on each project by the project coordination team.

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Subp. 3. **Priority points for project implementation grant applications.** The following criteria must be used to determine the number of priority points ~~a project for which a project implementation grant application has been submitted is entitled~~ to be awarded in the evaluation of each project implementation grant application. The agency shall award each project between zero and ten points under each of the following criteria, depending on how well the project satisfies the criterion. The number of points under each criterion must be added together to determine the project's total point value. This total number must be used to determine the project's overall ranking and priority. The criteria are as follows:

A. the extent to which the project demonstrates a high potential for successful water quality protection and improvement based on a comparison of existing water quality and the project's goals and objectives with maximum contaminant levels and recommended allowable limits for drinking water, water quality standards, and regional lake and stream water quality criteria published by the agency, the Minnesota Department of Health, and the United States Environmental Protection Agency;

B. the extent to which the project employs best management practices which provide a technically and economically feasible means to abate or prevent water pollution from nonpoint sources;

C. the extent to which the project maximizes water quality protection or improvement relative to the cost of project implementation;

D. the extent to which the project goals and objectives are consistent with state water quality management plans and other applicable state and federal resource management programs;

E. the extent to which the project demonstrates a high potential for project success based on community support and involvement as well as participation, coordination, and cooperation of federal, state, and local agencies and units of

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government for water quality protection and improvement;

F. the extent to which the project demonstrates a significant degree of transferability to similar local units of government; and

G. the priority placed on each project by the project coordination team.

Subp. 4. **Project coordination team.** The project coordination team has 60 days from the close of the application period to assign points to each project seeking a grant. In the event that the project coordination team fails to assign points to all projects with approved grant applications, the projects must be ranked without considering any points under the category for the project coordination team. The project coordination team must use the criteria established in Minnesota Statutes, section 115.098, to assign points to each project seeking a grant.

7076.0180 ALLOCATION OF FUNDING.

Subpart 1. **Project continuation grant amendments.** Each year by March 1, the agency shall determine how much of the available funds will be set aside to meet that year's anticipated requests for project continuation grant amendments. If the agency subsequently determines that the amount set aside for project continuation grant amendments is more than is required for grant amendments in that year, the agency may reallocate this money to other project development grants and project implementation grants or carry over the money to another grant application period.

Subp. 2. **Grant fund allocation.** Within 90 days of the close of an application period, the agency shall determine how much of the remaining funds, after setting aside funds for project continuation grant amendments, will be made available for project development and project implementation grant awards. In deciding how much money to make available for new grant awards, the agency shall consider the necessity to have money available for subsequent grant periods, the necessity to

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have money available for anticipated project continuation grant amendments in the next year, and other factors relating to the agency's ability to ensure that money will be available for upcoming projects.

Subp. 3. **Development; implementation split.** Within 90 days of the close of an application period, the agency shall determine how much of the funds available for new grants in that application period will be available for project development and project implementation grants. In determining the allocation of funds between project development and project implementation grants, the agency shall consider:

A. the availability and conditions for use of federal funds; and

B. the phasing in and continuity of projects in the program.

If the money intended for project development or project implementation grants, or both, is not awarded during a grant period, the agency may reallocate the funds to the other kind of grant or to a subsequent grant period.

7076.0190 SELECTION OF PROJECTS FOR GRANT AWARD.

Subpart 1. **Ranking.** The agency shall complete its ranking of all projects for which an acceptable grant application has been submitted within 90 days of the close of the application period. The agency shall rank development projects separately from implementation projects.

Subp. 2. **Projects funded.** The agency shall select those projects that will be awarded grant funds by awarding grants to the highest priority project development and project implementation applications within the limits of available funds established under part 7076.0180, subpart 2. A project that receives less than 40 points will not be considered for award of grant funds.

Subp. 3. **Agency decision.** All decisions of the agency in ranking projects and awarding grants must be made at a regular or special board meeting.

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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.

7076.0200 PROJECT CONTINUATION GRANT AMENDMENT.

Subpart 1. **Eligibility.** A project sponsor who has been awarded a project implementation grant is eligible for a project continuation grant amendment to continue the project after the expiration of the initial grant. The requirements that applied to the initial grant apply to the project continuation grant amendment. A project sponsor is eligible for one project continuation grant amendment on a particular project.

Subp. 2. **Request.** A project sponsor who seeks a project continuation grant amendment shall submit a request for the grant amendment in the year that the activities funded through the initial project implementation grant will be completed and additional funds will be required to continue project implementation. The request must be submitted on a form provided by the agency and may be submitted at any time during the calendar year the funds will be needed. A project sponsor who fails to submit a request for a project continuation grant amendment in the year the funds are required forfeits the right to an amendment. That project sponsor may apply in a subsequent grant period to continue the project and compete with other applicants for a project implementation grant.

Subp. 3. **Approval.** The agency shall approve the project sponsor's request for a project continuation grant amendment if it meets the following conditions:

A. the project sponsor has satisfied the terms and conditions of the grant to date; and

B. the project sponsor has identified the source of the local share of funds necessary for the project continuation

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grant amendment.

7076.0210 GRANT CONDITIONS.

Subpart 1. **Amount.** A grant that is made must be for the amount requested by the applicant, up to a maximum of 50 percent of the eligible cost of project development or project implementation.

Subp. 2. **Grant period.** The grant period for a project development grant will be for a period of two years. The grant period for a project implementation grant will be for a period of three years and may be extended an additional three years with agency approval of a request for a project continuation grant amendment in accordance with part 7076.0200.

Subp. 3. **Grant contract.** The project sponsor must enter into a contract with the agency before a grant will be awarded. The contract must include the provisions in part 7076.0220.

Subp. 4. **Records.** The project sponsor shall maintain all records relating to the receipt and expenditure of grant funds for a period of at least three years from the date of termination of the grant contract.

Subp. 5. **Audit.** The project sponsor must agree that the books, records, documents, and accounting procedures and practices of the project sponsor relevant to this program may be examined at any time by the commissioner or the commissioner's designee.

Subp. 6. **Annual progress report.** The project sponsor shall submit an annual progress report to the commissioner by February 1 of each year the grant is in effect. The report must include the following information:

A. a discussion of work progress relative to the schedule, and difficulties encountered meeting the schedule during the year;

B. a discussion of the project findings appropriate to the work conducted during the year;

C. a report of expenditures in the year and those anticipated during the upcoming year;

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D. a discussion and summary analysis of monitoring data and a discussion of the changes in water quality that appear to have resulted from the protective and restorative activities implemented during the year; and

E. water quality monitoring data collected during the year in the format required by the agency.

Subp. 7. **Mid-year update.** The project sponsor shall give the commissioner a mid-year update by August 1 of each year the grant is in effect. The mid-year update must include a brief report on project progress and difficulties encountered in meeting the project schedule.

Subp. 8. **Monitoring plan.** The project sponsor shall submit a monitoring plan to the commissioner within 60 days of the award of the grant. The monitoring plan must be revised annually and submitted to the commissioner by January 31. The monitoring plan must comply with part 7076.0230.

Subp. 9. **Diagnostic study and implementation plan.** The project sponsor for a project development grant shall submit to the commissioner before the final grant payment is made a diagnostic study and implementation plan that meets the requirements of parts 7076.0240 and 7076.0250.

Subp. 10. **Eligible costs.** No grant funds shall be used to reimburse the project sponsor for costs incurred after the end of the contract period.

7076.0220 GRANT CONTRACT.

Subpart 1. **Contents.** The agency and the project sponsor shall enter into a grant contract. The grant contract must:

A. establish the terms and conditions of the grant;

B. provide that the project sponsor may enter into contracts, under terms and conditions specified by the agency, to complete the work specified in the contract;

C. provide that the cost overruns are the sole responsibility of the project sponsor;

D. require that the project sponsor submit periodic progress reports and a final report to the agency in a format

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prescribed by the agency; and

E. incorporate terms and conditions required by federal or state statutes, rules, and regulations.

Subp. 2. **Amendments.** A grant contract may be amended upon agreement of the agency and the project sponsor.

Subp. 3. **Contract period.** Grant contracts for project development will be for a period of up to two years. Grant contracts for project implementation will be for a period of up to six years. The agency may allow a one-year extension of either of these grant contracts.

7076.0230 MONITORING PLAN.

Subpart 1. **Requirements.** The monitoring plan required to be submitted to the commissioner as a condition of the grant must:

A. identify and provide rationale for the selection of monitoring sites, monitoring frequency, and parameters to be monitored; and

B. identify laboratories that will do analyses and explain their quality assurance and quality control procedures.

Subp. 2. **Review.** The commissioner will review the monitoring plan and approve it or identify deficiencies in writing within 45 days of its receipt. The project sponsor shall have 15 days to correct any deficiencies.

Subp. 3. **Grant payment.** No grant payment shall be paid after March 31 in any year in which a monitoring plan has not been approved.

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

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methods, procedures, model, and other tools used to prepare and complete the diagnostic study.

Subp. 2. **Description of water of concern.** The diagnostic study must contain a detailed description of the water of concern that includes:

A. a summary of historical uses and changes resulting from water quality degradation;

B. a discussion of previous studies and other historic baseline physical, chemical, and biological data; and

C. current data or information for the following:

(1) if the water of concern is a lake, the description shall include the following:

(a) identification or measurement of lake surface area, maximum depth, average depth, one in ten year low and high as well as average hydraulic residence time, temperature profiles, secchi disk transparencies, the area of the watershed draining to the lake, its tributaries, their estimated contribution to inflows, and a hydrologic budget including groundwater flow;

(b) measurement of dissolved oxygen, total phosphorus, dissolved inorganic phosphorus, total Kjeldahl nitrogen, nitrite plus nitrate nitrogen, total suspended solids, total alkalinity, chloride concentrations, color, pH, and conductivity; determination of mass loadings of total phosphorus, total Kjeldahl nitrogen, and total suspended solids from major tributaries and completion of nutrient and sediment budgets for the lake;

(c) measurement of average summer epilimnetic chlorophyll a, a description of predominant phytoplankton, zooplankton, and submerged, floating, and emergent vascular plant communities; measurement of fecal streptococcus and fecal coliform bacteria where human health may be impacted; and

(d) a summary of available fisheries information;

(2) if the water of concern is a stream, the

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description shall include the following:

(a) identification or measurement of stream length, sinuosity, order, substrate, estimated maximum high flow for 24 consecutive hours that has a recurrence interval of 25 years, mean flow for the available period of record, and annual minimum flow for seven consecutive days that has a recurrence interval of ten years;

(b) measurement of flow and biochemical oxygen demand, total phosphorus, nitrite plus nitrate nitrogen, ammonia nitrogen, organic nitrogen, total dissolved solids, total suspended solids, and diurnal dissolved oxygen concentrations, turbidity, pH, and conductivity;

(c) measurement of fecal streptococcus and fecal coliform bacteria where human health may be impacted; and

(d) completion of invertebrate and fishery assessments using standard benthological and ichthyological techniques; identification of significant biological habitats including riparian vegetation and spawnings areas; and

(3) if the water of concern is an aquifer, the description shall include the following:

(a) identification or measurement of the aquifer physical type, size, temperature, saturated thickness, recharge sources, discharge sources transmissivity, hydraulic residence time, range of hydraulic gradients, and underlying lithology and stratigraphy;

(b) measurement of chemical oxygen demand, total organic carbon, total Kjeldahl nitrogen, ammonia nitrogen, nitrite plus nitrate nitrogen, total phosphorus, chloride, sulfate, calcium, magnesium, iron, manganese, potassium, sodium, bicarbonate, and alkalinity concentrations, oxidation potential, pH, and specific conductance;

(c) measurement of organic compounds, pesticides, and metals in areas where they are pollutants of concern;

(d) measurement of fecal streptococcus and fecal coliform bacteria where human health may be impacted; and

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(4) if the water of concern is water other than a lake, stream, or aquifer, the data and information requirements will be determined jointly by the agency and the project sponsor.

Subp. 3. **Description of project area.** The diagnostic study must contain a detailed description of the project area that includes:

A. a map of the project area;

B. an aerial photo of the project area;

C. maps of general topographic relief based on United States Geological Survey topographic maps;

D. a map of the project area divided into subunits on a hydrologic basis including boundaries and flow directions for each subunit;

E. a description of important aquifer systems, confining layers, and flow characteristics;

F. a description of ground and surface water interconnections, such as recharge and discharge areas;

G. a description of known geologic conditions, such as karst areas, buried valleys, or sand plains that may pose concerns relating to water quality;

H. a description of waters of the state and public drainage ditches, including dams and control structures;

I. soil:

(1) a general soils map and description of soils infiltration characteristics; and

(2) a map of erosion-prone soils;

J. land use:

(1) existing and future land uses;

(2) areas served by storm sewers, sanitary sewers, and public water systems;

(3) the location of community public water supply, intakes, and wells;

(4) irrigated acreage;

(5) domestic animal density and feedlots;

(6) on-site wastewater treatment systems;

(7) existing management practices;

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(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;

(14) wetlands identified under the National Wetlands Inventory and a summary of applicable management plans;

(15) areas delineated as floodplains;

(16) areas with known flooding problems;

(17) a summary of the state ecological and management classifications;

(18) a summary of state management plans for fish and wildlife;

(19) unique features and scenic areas with relationships to water including state designated natural and scientific areas, outstanding resource value waters, areas containing county, state, and federal rare and endangered species and other features such as waterfalls and springs;

(20) the ownership of local, state, and federal Indian tribal lands;

(21) lands with easements that relate to water resources;

(22) population characteristics; and

(23) a summary of recreational land uses;

K. precipitation:

(1) a map and list of the location of precipitation gauging stations in the project area;

(2) a map showing isolines of normal annual total precipitation;

(3) a map showing isolines of normal precipitation in inches for the period May to September; and

(4) a summary of precipitation information for

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the project area; and

L. hydrology:

(1) an estimate of the maximum high flow for 24 consecutive hours that has a recurrence interval of 25 years, mean flow for the available period of record, and annual minimum flow for seven consecutive days that has a recurrence interval of ten years;

(2) a description of permitted withdrawals from lakes and streams, including location, source, use, and amounts withdrawn;

(3) a description of protected levels or flows that have been established for lakes and streams;

(4) a description of known water use conflicts, including those caused by groundwater pumping, that affect surface waters;

(5) a description of wells covered by state appropriation permits including location, amounts of water appropriated, type of use, and aquifer source;

(6) a description of known well interference problems and water use conflicts; and

(7) a list of state observation wells including location, unique well number, aquifers measured, years of record, and average monthly levels.

Subp. 4. **Analysis and assessment.** The diagnostic study must contain an analysis and assessment of the data and information collected as a requirement of subparts 2 and 3 including the following:

A. the identification of existing and potential water quality problems;

B. the identification of water quality goals for the water of concern;

C. the identification of project objectives in terms of:

(1) specific water chemical, biological, and physical measurements; and

(2) economic, recreational, and health factors;

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D. an estimate of the pollutants coming from the subunit of project area defined on a hydrologic basis and the identification of the target levels of pollutant reduction necessary to meet the project objectives and water quality goals; and

E. the identification and ranking of the subunit of the project area defined on a hydrologic basis into priority management areas on which to focus implementation of best management practices.

Subp. 5. **Exemption.** Upon written request from the project sponsor, the agency may allow an exemption from a specific diagnostic study requirement that does not provide data or information useful for diagnosis of the problem or solutions.

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

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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 nonpoint source pollution;

H. a list of any federal ~~or~~, state, or local permits and approvals required to complete the project; and

I. an opinion and supporting documentation from the project sponsor's attorney that the project sponsor and participating local units of government have the legal authority to implement the project.

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

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problems, sources of pollution, and project goals and objectives for water quality protection and improvement;

C. the implementation plan provides a technically feasible means to abate nonpoint sources of water pollution and achieve project objectives; and

D. the diagnostic study and implementation plan are consistent with state and federal statutes, rules, and regulations.

Subp. 2. **Reasons for disapproval.** If the diagnostic study and implementation plan are disapproved, the commissioner shall provide the project sponsor with a written statement of reasons for disapproval.

Subp. 3. **Resubmittal.** A disapproved diagnostic study and implementation plan must be revised by the project sponsor and resubmitted to the commissioner. Upon receipt of the revised diagnostic study and implementation plan, the commissioner shall review the revised diagnostic study and implementation plan.

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.

7076.0280 GRANT PAYMENTS.

Subpart 1. **Reimbursement.** The project sponsor may submit a request for reimbursement of expenditures for each of the

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standard calendar quarters ending March 31, June 30, September 30, and December 31. The agency shall pay the reimbursement within 45 days of the request if the grantee is in compliance with conditions of the grant contract and requirements of parts 7076.0100 to 7076.0290.

Subp. 2. **Final payment.** The agency shall withhold reimbursement on the final ten percent of the grant contract amount until the agency is satisfied that the project has been completed in accordance with the terms of the grant contract and parts 7076.0100 to 7076.0290.

Subp. 3. **Withholding of reimbursement.** The agency ~~may~~ shall withhold reimbursement if the project sponsor has failed to comply with any requirements of the grant contract or parts 7076.0100 to 7076.0290. The funds will not be released until the agency determines that the project sponsor has corrected the deficiencies causing noncompliance.

Subp. 4. **Advance.** The project sponsor may submit a request for an advance of grant funds after the commissioner approves the project monitoring plan. The advance is limited to ten percent of the grant award or $50,000, whichever amount is less.

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.

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Office of the Revisor of Statutes

Administrative Rules

TITLE: Adopted Permanent Rules Relating to Clean Water Partnership

AGENCY: Pollution Control Agency

MINNESOTA RULES: Chapter 7076

The attached rules are approved for filing with the Secretary of State

David S. Niss
Assistant Revisor

AG Copy

Pollution Control Agency
Water Quality Division

Adopted Permanent Rules Relating to Clean Water Partnership

Rules as Adopted

CHAPTER 7076
MINNESOTA POLLUTION CONTROL AGENCY
WATER QUALITY DIVISION
CLEAN WATER PARTNERSHIP GRANTS

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.

7076.0110 DEFINITIONS.

Subpart 1. **Scope.** The terms used in parts 7076.0100 to 7076.0290 have the meanings given them in Minnesota Statutes, chapters 115 and 116, and rules adopted under those chapters and the meanings given them in this part. If terms defined in this part conflict with the definitions in Minnesota Statutes, chapters 115 and 116 and the rules adopted under those chapters, the definitions in this part govern.

Subp. 2. **Agency.** "Agency" means the Pollution Control Agency.

Subp. 3. **Best management practices.** "Best management practices" has the meaning given it in Minnesota Statutes, section 115.093, subdivision 3.

Subp. 4. **Commissioner.** "Commissioner" means the commissioner of the Pollution Control Agency.

Subp. 5. **Land occupier.** "Land occupier" means a person

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who possesses lands in the project area whether as owner, lessee, renter, tenant, or otherwise, including successors of a land occupier who received a payment during the minimum effective life of a best management practice.

Subp. 6. **Local share.** "Local share" means the contributions of a local unit of government to the eligible cost of a project, including the value of cash expenditures and in-kind contributions of labor, equipment, material, and real property used for and expended on eligible project activities.

Subp. 7. **Local unit of government.** "Local unit of government" has the meaning given it in Minnesota Statutes, section 115.093, subdivision 5.

Subp. 8. **Local water plan.** "Local water plan" means a comprehensive water plan authorized under Minnesota Statutes, chapter 110B; a surface water management plan required under Minnesota Statutes, section 473.878; an overall plan required under Minnesota Statutes, chapter 112; or until July 1, 1991, any other local plan that provides an inventory of existing physical and hydrologic information on the area, a general identification of water quality problems and goals, and that demonstrates a local commitment to water quality protection or improvement.

Subp. 9. **Nonpoint source.** "Nonpoint source" has the meaning given it in Minnesota Statutes, section 115.093, subdivision 6.

Subp. 10. **Official controls.** "Official controls" has the meaning given it in Minnesota Statutes, section 115.093, subdivision 7.

Subp. 11. **Person.** "Person" has the meaning given it in Minnesota Statutes, section 115.01, subdivision 10.

Subp. 12. **Project.** "Project" has the meaning given it in Minnesota Statutes, section 115.093, subdivision 8.

Subp. 13. **Project area.** "Project area" means the area identified as hydrologically contributing to the water of concern for which the diagnostic study and implementation plan are developed and implemented.

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Subp. 14. **Project continuation grant amendment.** "Project continuation grant amendment" means an amendment to an existing project implementation grant to provide funds to continue implementation of activities identified in an approved diagnostic study and implementation plan that were not funded in the initial project implementation grant.

Subp. 15. **Project coordination team.** "Project coordination team" means the public interagency group established in Minnesota Statutes, section 115.103, subdivision 1.

Subp. 16. **Project development.** "Project development" means the development of a diagnostic study and implementation plan.

Subp. 17. **Project development grant.** "Project development grant" means a grant from the agency to the project sponsor for the preparation of a diagnostic study and implementation plan.

Subp. 18. **Project implementation.** "Project implementation" means the implementation of an approved diagnostic study and implementation plan or their equivalent.

Subp. 19. **Project implementation grant.** "Project implementation grant" means a grant from the agency to the project sponsor for the implementation of a diagnostic study and implementation plan or their equivalent.

Subp. 20. **Project sponsor.** "Project sponsor" means the local unit of government that applies for a grant, enters into a grant contract, and is responsible for development and implementation of the project.

Subp. 21. **Water pollution.** "Water pollution" has the meaning given it in Minnesota Statutes, section 115.01, subdivision 5.

Subp. 22. **Waters of the state.** "Waters of the state" has the meaning given it in Minnesota Statutes, section 115.01, subdivision 9.

Subp. 23. **Water of concern.** "Water of concern" means the specific water of the state which the project is focused on improving or protecting.

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7076.0120 AVAILABLE ASSISTANCE.

Subpart 1. **Financial assistance.** There are two types of grants available for nonpoint source projects: (1) project development grants, and (2) project implementation grants. The grants are for a maximum of 50 percent of the eligible cost of the project. Grants must be awarded, within the limits of available appropriations, to those applicants having the highest priority.

How & Who decides?

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.

7076.0130 ELIGIBILITY CRITERIA.

Subpart 1. **Eligible applicants.** Only local units of government are eligible to apply for grants and receive technical assistance. A local unit of government is eligible to apply for state matching grants and request technical assistance if it has the following:

A. the authority to coordinate and enter into contracts with local, state, and federal agencies and private organizations for the purpose of carrying out a project;

B. the authority to generate cash revenues and in-kind contributions for the local share of a project; and

C. the authority to adopt, implement, and enforce official controls.

Subp. 2. **Eligible costs.** Project costs are eligible for state matching grants if the costs are reasonable and necessary and allocable for the development of a diagnostic study and implementation plan, or for the implementation of the plan, and if the costs are related to any of the following activities:

A. water quality monitoring, water resource and project area data and information collection, data and information analysis and assessment, and related tasks;

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B. fiscal and management activities including report preparation;

C. selection, design, layout, and installation of best management practices;

D. development, review, and inspection of installation, operation, and maintenance procedures for best management practices;

E. development and implementation of public education materials and activities;

F. development and implementation of official controls;

G. acquisition of easements and property; and

H. other activities determined by the agency or established by federal regulation to be necessary to develop and implement the project.

Subp. 3. **Ineligible costs.** Ineligible costs include any costs that are not related to the activities in subpart 2. In addition, the following costs are ineligible whether or not they relate to the activities in subpart 2:

A. installation of best management practices before the grant award;

B. operation and maintenance of best management practices;

C. activities regulated by the National Pollutant Discharge Elimination System permit program, parts 7001.1000 to 7001.1100; the State Disposal System permit program; the Petroleum Tank Release Clean-up 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;

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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.

7076.0140 NOTICE OF GRANT AVAILABILITY.

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Subpart 1. **Notice.** The agency will publish in the State Register a notice that applications for project development grants and project implementation grants will be accepted whenever the agency determines that funds are available to award the grants. The notice will contain a deadline for application submittal, which must be no less than 60 days from the date of publication.

Subp. 2. **Notification list.** The agency shall maintain a list of those local governmental bodies that wish to be notified of grant application periods. Any local governmental body that wishes to be placed on the list shall notify the agency by writing to the director of the public information office. Whenever the agency publishes notice in the State Register, the agency shall mail notice of the grant application period to those local governmental bodies on the list.

Subp. 3. **Grant application periods.** The agency may establish a grant application period from time to time but there must be at least one application period each calendar year if funds are available.

7076.0150 GRANT APPLICATION.

Subpart 1. **General requirements.** The grant application must be submitted by the local unit of government that will be the project sponsor. A grant application must be submitted in a timely fashion to be considered. The grant application must be submitted on a form provided by the agency and must contain the information required in the form and by this part.

Subp. 2. **Project development grant.** An applicant submitting an application for a project development grant must submit the following information:

A. a resolution by the local unit of government that will be the project sponsor, authorizing the filing of the application and designating an official authorized to execute the grant application, the grant contract, and other related project documents;

B. written documentation that the project sponsor has

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consulted with soil and water conservation districts and watershed districts in the project area, in preparing the grant application;

C. identification of agencies and organizations that will be involved in project development;

D. resolutions from each participating local unit of government which identifies their role in project development and identification of their contribution to the local share of project development costs;

E. the amount of grant funding requested;

F. a list identifying the amount, type, and source of the local share;

G. a work plan and schedule that contain the following:

(1) the identification of each water of the state that will be affected by the project;

(2) a description of the existing or potential surface and ground water problems that are to be addressed in the project;

(3) a work plan listing the activities that the grant would make possible; and

(4) a schedule containing milestones for project development;

H. a local water plan that provides an inventory of existing physical and hydrologic information on the project area, a general identification of water quality problems, and goals for resource use, and demonstrates a local commitment to water quality protection or improvements; and

I. documents required by state or federal statutes, rules, and regulations.

Subp. 3. **Project implementation grant.** An applicant submitting an application for a project implementation grant shall submit the following information:

A. a resolution by the local unit of government that will be the project sponsor, authorizing the filing of the application and designating an official authorized to execute

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the grant application, the grant contract, and other related project documents;

B. written documentation that the project sponsor has consulted with soil and water conservation districts and watershed districts in the project area, in preparing the grant application;

C. a diagnostic study and implementation plan approved under part 7076.0260, or an equivalent study and plan that addresses the requirements of a diagnostic study and implementation plan and that has been approved under part 7076.0260 and which contains a local water plan that provides an inventory of existing physical and hydrologic information on the project area, a general identification of water quality problems, and goals for resource use, and demonstrates a local commitment to water quality protection or improvements;

D. resolutions from each participating local unit of government that identify their role in project implementation and their contribution to the local share of project implementation costs;

E. a detailed work plan and schedule for project implementation during the grant period;

F. a detailed budget for the grant period including the identification of the amount requested in the grant;

G. a list identifying the amount, type, and source of the local share;

H. a description of the work and the budget for project implementation beyond the grant period, including an indication of whether the project sponsor anticipates applying for a project continuation grant amendment; and

I. documents required by state or federal statutes, rules, and regulations.

7076.0160 REJECTION OF GRANT APPLICATION.

Subpart 1. **Grounds.** An application for a project development grant or a project implementation grant may be rejected by the commissioner for the following reasons:

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A. an ineligible applicant;

B. ineligible costs;

C. a late submittal; or

D. failure to comply with any requirement of statute or rule.

Subp. 2. **Procedure.** The commissioner shall review each grant application within 30 days after the deadline for application submittal. The commissioner shall notify each rejected grant applicant of the rejection of its application and the reasons for the rejection.

Subp. 3. **Effect of rejection.** A grant applicant whose application is rejected for a reason other than for late submittal has 14 days from receipt of the notice of rejection to correct any deficiencies, if correction is possible. If the application is corrected within the 14 days, the application must be accepted and the project must be ranked with other approved grant applications. An application that cannot be or is not corrected must not be further considered. A grant applicant whose application is rejected and not corrected must reapply in a subsequent application period in order to be considered for a grant.

7076.0170 PROJECT RANKING.

Subpart 1. **Process of ranking.** Upon completion of the commissioner's review of the grant applications for acceptability, the agency shall rank the acceptable grant applications in order of priority. Each project for which an acceptable grant application has been submitted must be awarded the number of priority points the project is entitled to under subparts 2 and 3. The project with the highest number of priority points will be given the highest priority. All projects will be given a ranking depending on the number of points awarded. The project development grant applications must be ranked separately from the project implementation grant applications.

Subp. 2. **Priority points for project development grant**

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applications. The following criteria must be used to determine the number of priority points ~~a project for which a project development grant application has been submitted is entitled~~ to be awarded in the evaluation of each project development grant application. The agency shall award each project between zero and ten points under each of the following criteria, depending on how well the project satisfies the criterion. The number of points awarded under each criterion must be added together to determine the project's total point value. This total number must be used to determine the project's overall ranking and priority. The criteria are as follows:

A. the extent to which the proposed project demonstrates a high potential for project success based on community support and involvement as well as participation, coordination, and cooperation of federal, state, and local agencies and units of government for water quality protection and improvement;

B. the extent to which the proposed project takes place where local units of government have adopted and implemented authorities or official controls to abate or prevent water pollution from nonpoint sources;

C. the extent to which the water of concern is identified as a priority water in the local water plan;

D. the extent to which the proposed project affects waters identified in the statewide resource assessment conducted under Minnesota Statutes, section 115.095, as waters that could not be expected to attain or maintain compliance with applicable water quality standards or goals without additional control of nonpoint sources;

E. the extent to which the project demonstrates a likelihood of transferability to similar resources;

F. the extent to which the project is of a size and scale to promote successful project management and water quality protection and improvement; and

G. the priority placed on each project by the project coordination team.

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Subp. 3. **Priority points for project implementation grant applications.** The following criteria must be used to determine the number of priority points ~~a project for which a project implementation grant application has been submitted is entitled~~ to be awarded in the evaluation of each project implementation grant application. The agency shall award each project between zero and ten points under each of the following criteria, depending on how well the project satisfies the criterion. The number of points under each criterion must be added together to determine the project's total point value. This total number must be used to determine the project's overall ranking and priority. The criteria are as follows:

A. the extent to which the project demonstrates a high potential for successful water quality protection and improvement based on a comparison of existing water quality and the project's goals and objectives with maximum contaminant levels and recommended allowable limits for drinking water, water quality standards, and regional lake and stream water quality criteria published by the agency, the Minnesota Department of Health, and the United States Environmental Protection Agency;

B. the extent to which the project employs best management practices which provide a technically and economically feasible means to abate or prevent water pollution from nonpoint sources;

C. the extent to which the project maximizes water quality protection or improvement relative to the cost of project implementation;

D. the extent to which the project goals and objectives are consistent with state water quality management plans and other applicable state and federal resource management programs;

E. the extent to which the project demonstrates a high potential for project success based on community support and involvement as well as participation, coordination, and cooperation of federal, state, and local agencies and units of

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government for water quality protection and improvement;

F. the extent to which the project demonstrates a significant degree of transferability to similar local units of government; and

G. the priority placed on each project by the project coordination team.

Subp. 4. **Project coordination team.** The project coordination team has 60 days from the close of the application period to assign points to each project seeking a grant. In the event that the project coordination team fails to assign points to all projects with approved grant applications, the projects must be ranked without considering any points under the category for the project coordination team. The project coordination team must use the criteria established in Minnesota Statutes, section 115.098, to assign points to each project seeking a grant.

7076.0180 ALLOCATION OF FUNDING.

Subpart 1. **Project continuation grant amendments.** Each year by March 1, the agency shall determine how much of the available funds will be set aside to meet that year's anticipated requests for project continuation grant amendments. If the agency subsequently determines that the amount set aside for project continuation grant amendments is more than is required for grant amendments in that year, the agency may reallocate this money to other project development grants and project implementation grants or carry over the money to another grant application period.

Subp. 2. **Grant fund allocation.** Within 90 days of the close of an application period, the agency shall determine how much of the remaining funds, after setting aside funds for project continuation grant amendments, will be made available for project development and project implementation grant awards. In deciding how much money to make available for new grant awards, the agency shall consider the necessity to have money available for subsequent grant periods, the necessity to

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have money available for anticipated project continuation grant amendments in the next year, and other factors relating to the agency's ability to ensure that money will be available for upcoming projects.

Subp. 3. **Development; implementation split.** Within 90 days of the close of an application period, the agency shall determine how much of the funds available for new grants in that application period will be available for project development and project implementation grants. In determining the allocation of funds between project development and project implementation grants, the agency shall consider:

A. the availability and conditions for use of federal funds; and

B. the phasing in and continuity of projects in the program.

If the money intended for project development or project implementation grants, or both, is not awarded during a grant period, the agency may reallocate the funds to the other kind of grant or to a subsequent grant period.

7076.0190 SELECTION OF PROJECTS FOR GRANT AWARD.

Subpart 1. **Ranking.** The agency shall complete its ranking of all projects for which an acceptable grant application has been submitted within 90 days of the close of the application period. The agency shall rank development projects separately from implementation projects.

Subp. 2. **Projects funded.** The agency shall select those projects that will be awarded grant funds by awarding grants to the highest priority project development and project implementation applications within the limits of available funds established under part 7076.0180, subpart 2. A project that receives less than 40 points will not be considered for award of grant funds.

Subp. 3. **Agency decision.** All decisions of the agency in ranking projects and awarding grants must be made at a regular or special board meeting.

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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.

7076.0200 PROJECT CONTINUATION GRANT AMENDMENT.

Subpart 1. **Eligibility.** A project sponsor who has been awarded a project implementation grant is eligible for a project continuation grant amendment to continue the project after the expiration of the initial grant. The requirements that applied to the initial grant apply to the project continuation grant amendment. A project sponsor is eligible for one project continuation grant amendment on a particular project.

Subp. 2. **Request.** A project sponsor who seeks a project continuation grant amendment shall submit a request for the grant amendment in the year that the activities funded through the initial project implementation grant will be completed and additional funds will be required to continue project implementation. The request must be submitted on a form provided by the agency and may be submitted at any time during the calendar year the funds will be needed. A project sponsor who fails to submit a request for a project continuation grant amendment in the year the funds are required forfeits the right to an amendment. That project sponsor may apply in a subsequent grant period to continue the project and compete with other applicants for a project implementation grant.

Subp. 3. **Approval.** The agency shall approve the project sponsor's request for a project continuation grant amendment if it meets the following conditions:

A. the project sponsor has satisfied the terms and conditions of the grant to date; and

B. the project sponsor has identified the source of the local share of funds necessary for the project continuation

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grant amendment.

7076.0210 GRANT CONDITIONS.

Subpart 1. **Amount.** A grant that is made must be for the amount requested by the applicant, up to a maximum of 50 percent of the eligible cost of project development or project implementation.

Subp. 2. **Grant period.** The grant period for a project development grant will be for a period of two years. The grant period for a project implementation grant will be for a period of three years and may be extended an additional three years with agency approval of a request for a project continuation grant amendment in accordance with part 7076.0200.

Subp. 3. **Grant contract.** The project sponsor must enter into a contract with the agency before a grant will be awarded. The contract must include the provisions in part 7076.0220.

Subp. 4. **Records.** The project sponsor shall maintain all records relating to the receipt and expenditure of grant funds for a period of at least three years from the date of termination of the grant contract.

Subp. 5. **Audit.** The project sponsor must agree that the books, records, documents, and accounting procedures and practices of the project sponsor relevant to this program may be examined at any time by the commissioner or the commissioner's designee.

Subp. 6. **Annual progress report.** The project sponsor shall submit an annual progress report to the commissioner by February 1 of each year the grant is in effect. The report must include the following information:

A. a discussion of work progress relative to the schedule, and difficulties encountered meeting the schedule during the year;

B. a discussion of the project findings appropriate to the work conducted during the year;

C. a report of expenditures in the year and those anticipated during the upcoming year;

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D. a discussion and summary analysis of monitoring data and a discussion of the changes in water quality that appear to have resulted from the protective and restorative activities implemented during the year; and

E. water quality monitoring data collected during the year in the format required by the agency.

Subp. 7. **Mid-year update.** The project sponsor shall give the commissioner a mid-year update by August 1 of each year the grant is in effect. The mid-year update must include a brief report on project progress and difficulties encountered in meeting the project schedule.

Subp. 8. **Monitoring plan.** The project sponsor shall submit a monitoring plan to the commissioner within 60 days of the award of the grant. The monitoring plan must be revised annually and submitted to the commissioner by January 31. The monitoring plan must comply with part 7076.0230.

Subp. 9. **Diagnostic study and implementation plan.** The project sponsor for a project development grant shall submit to the commissioner before the final grant payment is made a diagnostic study and implementation plan that meets the requirements of parts 7076.0240 and 7076.0250.

Subp. 10. **Eligible costs.** No grant funds shall be used to reimburse the project sponsor for costs incurred after the end of the contract period.

7076.0220 GRANT CONTRACT.

Subpart 1. **Contents.** The agency and the project sponsor shall enter into a grant contract. The grant contract must:

A. establish the terms and conditions of the grant;

B. provide that the project sponsor may enter into contracts, under terms and conditions specified by the agency, to complete the work specified in the contract;

C. provide that the cost overruns are the sole responsibility of the project sponsor;

D. require that the project sponsor submit periodic progress reports and a final report to the agency in a format

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prescribed by the agency; and

E. incorporate terms and conditions required by federal or state statutes, rules, and regulations.

Subp. 2. **Amendments.** A grant contract may be amended upon agreement of the agency and the project sponsor.

Subp. 3. **Contract period.** Grant contracts for project development will be for a period of up to two years. Grant contracts for project implementation will be for a period of up to six years. The agency may allow a one-year extension of either of these grant contracts.

7076.0230 MONITORING PLAN.

Subpart 1. **Requirements.** The monitoring plan required to be submitted to the commissioner as a condition of the grant must:

A. identify and provide rationale for the selection of monitoring sites, monitoring frequency, and parameters to be monitored; and

B. identify laboratories that will do analyses and explain their quality assurance and quality control procedures.

Subp. 2. **Review.** The commissioner will review the monitoring plan and approve it or identify deficiencies in writing within 45 days of its receipt. The project sponsor shall have 15 days to correct any deficiencies.

Subp. 3. **Grant payment.** No grant payment shall be paid after March 31 in any year in which a monitoring plan has not been approved.

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

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methods, procedures, model, and other tools used to prepare and complete the diagnostic study.

Subp. 2. **Description of water of concern.** The diagnostic study must contain a detailed description of the water of concern that includes:

A. a summary of historical uses and changes resulting from water quality degradation;

B. a discussion of previous studies and other historic baseline physical, chemical, and biological data; and

C. current data or information for the following:

(1) if the water of concern is a lake, the description shall include the following:

(a) identification or measurement of lake surface area, maximum depth, average depth, one in ten year low and high as well as average hydraulic residence time, temperature profiles, secchi disk transparencies, the area of the watershed draining to the lake, its tributaries, their estimated contribution to inflows, and a hydrologic budget including groundwater flow;

(b) measurement of dissolved oxygen, total phosphorus, dissolved inorganic phosphorus, total Kjeldahl nitrogen, nitrite plus nitrate nitrogen, total suspended solids, total alkalinity, chloride concentrations, color, pH, and conductivity; determination of mass loadings of total phosphorus, total Kjeldahl nitrogen, and total suspended solids from major tributaries and completion of nutrient and sediment budgets for the lake;

(c) measurement of average summer epilimnetic chlorophyll a, a description of predominant phytoplankton, zooplankton, and submerged, floating, and emergent vascular plant communities; measurement of fecal streptococcus and fecal coliform bacteria where human health may be impacted; and

(d) a summary of available fisheries information;

(2) if the water of concern is a stream, the

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description shall include the following:

(a) identification or measurement of stream length, sinuosity, order, substrate, estimated maximum high flow for 24 consecutive hours that has a recurrence interval of 25 years, mean flow for the available period of record, and annual minimum flow for seven consecutive days that has a recurrence interval of ten years;

(b) measurement of flow and biochemical oxygen demand, total phosphorus, nitrite plus nitrate nitrogen, ammonia nitrogen, organic nitrogen, total dissolved solids, total suspended solids, and diurnal dissolved oxygen concentrations, turbidity, pH, and conductivity;

(c) measurement of fecal streptococcus and fecal coliform bacteria where human health may be impacted; and

(d) completion of invertebrate and fishery assessments using standard benthological and ichthyological techniques; identification of significant biological habitats including riparian vegetation and spawnings areas; and

(3) if the water of concern is an aquifer, the description shall include the following:

(a) identification or measurement of the aquifer physical type, size, temperature, saturated thickness, recharge sources, discharge sources transmissivity, hydraulic residence time, range of hydraulic gradients, and underlying lithology and stratigraphy;

(b) measurement of chemical oxygen demand, total organic carbon, total Kjeldahl nitrogen, ammonia nitrogen, nitrite plus nitrate nitrogen, total phosphorus, chloride, sulfate, calcium, magnesium, iron, manganese, potassium, sodium, bicarbonate, and alkalinity concentrations, oxidation potential, pH, and specific conductance;

(c) measurement of organic compounds, pesticides, and metals in areas where they are pollutants of concern;

(d) measurement of fecal streptococcus and fecal coliform bacteria where human health may be impacted; and

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(4) if the water of concern is water other than a lake, stream, or aquifer, the data and information requirements will be determined jointly by the agency and the project sponsor.

Subp. 3. **Description of project area.** The diagnostic study must contain a detailed description of the project area that includes:

A. a map of the project area;

B. an aerial photo of the project area;

C. maps of general topographic relief based on United States Geological Survey topographic maps;

D. a map of the project area divided into subunits on a hydrologic basis including boundaries and flow directions for each subunit;

E. a description of important aquifer systems, confining layers, and flow characteristics;

F. a description of ground and surface water interconnections, such as recharge and discharge areas;

G. a description of known geologic conditions, such as karst areas, buried valleys, or sand plains that may pose concerns relating to water quality;

H. a description of waters of the state and public drainage ditches, including dams and control structures;

I. soil:

(1) a general soils map and description of soils infiltration characteristics; and

(2) a map of erosion-prone soils;

J. land use:

(1) existing and future land uses;

(2) areas served by storm sewers, sanitary sewers, and public water systems;

(3) the location of community public water supply, intakes, and wells;

(4) irrigated acreage;

(5) domestic animal density and feedlots;

(6) on-site wastewater treatment systems;

(7) existing management practices;

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(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;

(14) wetlands identified under the National Wetlands Inventory and a summary of applicable management plans;

(15) areas delineated as floodplains;

(16) areas with known flooding problems;

(17) a summary of the state ecological and management classifications;

(18) a summary of state management plans for fish and wildlife;

(19) unique features and scenic areas with relationships to water including state designated natural and scientific areas, outstanding resource value waters, areas containing county, state, and federal rare and endangered species and other features such as waterfalls and springs;

(20) the ownership of local, state, and federal Indian tribal lands;

(21) lands with easements that relate to water resources;

(22) population characteristics; and

(23) a summary of recreational land uses;

K. precipitation:

(1) a map and list of the location of precipitation gauging stations in the project area;

(2) a map showing isolines of normal annual total precipitation;

(3) a map showing isolines of normal precipitation in inches for the period May to September; and

(4) a summary of precipitation information for

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the project area; and

L. hydrology:

(1) an estimate of the maximum high flow for 24 consecutive hours that has a recurrence interval of 25 years, mean flow for the available period of record, and annual minimum flow for seven consecutive days that has a recurrence interval of ten years;

(2) a description of permitted withdrawals from lakes and streams, including location, source, use, and amounts withdrawn;

(3) a description of protected levels or flows that have been established for lakes and streams;

(4) a description of known water use conflicts, including those caused by groundwater pumping, that affect surface waters;

(5) a description of wells covered by state appropriation permits including location, amounts of water appropriated, type of use, and aquifer source;

(6) a description of known well interference problems and water use conflicts; and

(7) a list of state observation wells including location, unique well number, aquifers measured, years of record, and average monthly levels.

Subp. 4. **Analysis and assessment.** The diagnostic study must contain an analysis and assessment of the data and information collected as a requirement of subparts 2 and 3 including the following:

A. the identification of existing and potential water quality problems;

B. the identification of water quality goals for the water of concern;

C. the identification of project objectives in terms of:

(1) specific water chemical, biological, and physical measurements; and

(2) economic, recreational, and health factors;

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D. an estimate of the pollutants coming from the subunit of project area defined on a hydrologic basis and the identification of the target levels of pollutant reduction necessary to meet the project objectives and water quality goals; and

E. the identification and ranking of the subunit of the project area defined on a hydrologic basis into priority management areas on which to focus implementation of best management practices.

Subp. 5. **Exemption.** Upon written request from the project sponsor, the agency may allow an exemption from a specific diagnostic study requirement that does not provide data or information useful for diagnosis of the problem or solutions.

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

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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 nonpoint source pollution;

H. a list of any federal ~~or~~, state, or local permits and approvals required to complete the project; and

I. an opinion and supporting documentation from the project sponsor's attorney that the project sponsor and participating local units of government have the legal authority to implement the project.

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

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problems, sources of pollution, and project goals and objectives for water quality protection and improvement;

C. the implementation plan provides a technically feasible means to abate nonpoint sources of water pollution and achieve project objectives; and

D. the diagnostic study and implementation plan are consistent with state and federal statutes, rules, and regulations.

Subp. 2. **Reasons for disapproval.** If the diagnostic study and implementation plan are disapproved, the commissioner shall provide the project sponsor with a written statement of reasons for disapproval.

Subp. 3. **Resubmittal.** A disapproved diagnostic study and implementation plan must be revised by the project sponsor and resubmitted to the commissioner. Upon receipt of the revised diagnostic study and implementation plan, the commissioner shall review the revised diagnostic study and implementation plan.

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.

7076.0280 GRANT PAYMENTS.

Subpart 1. **Reimbursement.** The project sponsor may submit a request for reimbursement of expenditures for each of the

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standard calendar quarters ending March 31, June 30, September 30, and December 31. The agency shall pay the reimbursement within 45 days of the request if the grantee is in compliance with conditions of the grant contract and requirements of parts 7076.0100 to 7076.0290.

Subp. 2. **Final payment.** The agency shall withhold reimbursement on the final ten percent of the grant contract amount until the agency is satisfied that the project has been completed in accordance with the terms of the grant contract and parts 7076.0100 to 7076.0290.

Subp. 3. **Withholding of reimbursement.** The agency may withhold reimbursement if the project sponsor has failed to comply with any requirements of the grant contract or parts 7076.0100 to 7076.0290. The funds will not be released until the agency determines that the project sponsor has corrected the deficiencies causing noncompliance.

Subp. 4. **Advance.** The project sponsor may submit a request for an advance of grant funds after the commissioner approves the project monitoring plan. The advance is limited to ten percent of the grant award or $50,000, whichever amount is less.

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.

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Pollution Control Agency
Water Quality Division

Adopted Permanent Rules Relating to Clean Water Partnership

Rules as Adopted

CHAPTER 7076
MINNESOTA POLLUTION CONTROL AGENCY
WATER QUALITY DIVISION
CLEAN WATER PARTNERSHIP GRANTS

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.

7076.0110 DEFINITIONS.

Subpart 1. **Scope.** The terms used in parts 7076.0100 to 7076.0290 have the meanings given them in Minnesota Statutes, chapters 115 and 116, and rules adopted under those chapters and the meanings given them in this part. If terms defined in this part conflict with the definitions in Minnesota Statutes, chapters 115 and 116 and the rules adopted under those chapters, the definitions in this part govern.

Subp. 2. **Agency.** "Agency" means the Pollution Control Agency.

Subp. 3. **Best management practices.** "Best management practices" has the meaning given it in Minnesota Statutes, section 115.093, subdivision 3.

Subp. 4. **Commissioner.** "Commissioner" means the commissioner of the Pollution Control Agency.

Subp. 5. **Land occupier.** "Land occupier" means a person

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who possesses lands in the project area whether as owner, lessee, renter, tenant, or otherwise, including successors of a land occupier who received a payment during the minimum effective life of a best management practice.

Subp. 6. **Local share.** "Local share" means the contributions of a local unit of government to the eligible cost of a project, including the value of cash expenditures and in-kind contributions of labor, equipment, material, and real property used for and expended on eligible project activities.

Subp. 7. **Local unit of government.** "Local unit of government" has the meaning given it in Minnesota Statutes, section 115.093, subdivision 5.

Subp. 8. **Local water plan.** "Local water plan" means a comprehensive water plan authorized under Minnesota Statutes, chapter 110B; a surface water management plan required under Minnesota Statutes, section 473.878; an overall plan required under Minnesota Statutes, chapter 112; or until July 1, 1991, any other local plan that provides an inventory of existing physical and hydrologic information on the area, a general identification of water quality problems and goals, and that demonstrates a local commitment to water quality protection or improvement.

Subp. 9. **Nonpoint source.** "Nonpoint source" has the meaning given it in Minnesota Statutes, section 115.093, subdivision 6.

Subp. 10. **Official controls.** "Official controls" has the meaning given it in Minnesota Statutes, section 115.093, subdivision 7.

Subp. 11. **Person.** "Person" has the meaning given it in Minnesota Statutes, section 115.01, subdivision 10.

Subp. 12. **Project.** "Project" has the meaning given it in Minnesota Statutes, section 115.093, subdivision 8.

Subp. 13. **Project area.** "Project area" means the area identified as hydrologically contributing to the water of concern for which the diagnostic study and implementation plan are developed and implemented.

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Subp. 14. **Project continuation grant amendment.** "Project continuation grant amendment" means an amendment to an existing project implementation grant to provide funds to continue implementation of activities identified in an approved diagnostic study and implementation plan that were not funded in the initial project implementation grant.

Subp. 15. **Project coordination team.** "Project coordination team" means the public interagency group established in Minnesota Statutes, section 115.103, subdivision 1.

Subp. 16. **Project development.** "Project development" means the development of a diagnostic study and implementation plan.

Subp. 17. **Project development grant.** "Project development grant" means a grant from the agency to the project sponsor for the preparation of a diagnostic study and implementation plan.

Subp. 18. **Project implementation.** "Project implementation" means the implementation of an approved diagnostic study and implementation plan or their equivalent.

Subp. 19. **Project implementation grant.** "Project implementation grant" means a grant from the agency to the project sponsor for the implementation of a diagnostic study and implementation plan or their equivalent.

Subp. 20. **Project sponsor.** "Project sponsor" means the local unit of government that applies for a grant, enters into a grant contract, and is responsible for development and implementation of the project.

Subp. 21. **Water pollution.** "Water pollution" has the meaning given it in Minnesota Statutes, section 115.01, subdivision 5.

Subp. 22. **Waters of the state.** "Waters of the state" has the meaning given it in Minnesota Statutes, section 115.01, subdivision 9.

Subp. 23. **Water of concern.** "Water of concern" means the specific water of the state which the project is focused on improving or protecting.

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7076.0120 AVAILABLE ASSISTANCE.

Subpart 1. **Financial assistance.** There are two types of grants available for nonpoint source projects: (1) project development grants, and (2) project implementation grants. The grants are for a maximum of 50 percent of the eligible cost of the project. Grants must be awarded, within the limits of available appropriations, to those applicants having the highest priority.

Subp. 2. **Technical assistance.** The agency may provide technical assistance to local units of government in order to ensure efficient and effective development and implementation of projects. Technical assistance must be given to local units of government that receive grants, within the limits of available resources.

7076.0130 ELIGIBILITY CRITERIA.

Subpart 1. **Eligible applicants.** Only local units of government are eligible to apply for grants and receive technical assistance. A local unit of government is eligible to apply for state matching grants and request technical assistance if it has the following:

A. the authority to coordinate and enter into contracts with local, state, and federal agencies and private organizations for the purpose of carrying out a project;

B. the authority to generate cash revenues and in-kind contributions for the local share of a project; and

C. the authority to adopt, implement, and enforce official controls.

Subp. 2. **Eligible costs.** Project costs are eligible for state matching grants if the costs are reasonable and necessary and allocable for the development of a diagnostic study and implementation plan, or for the implementation of the plan, and if the costs are related to any of the following activities:

A. water quality monitoring, water resource and project area data and information collection, data and information analysis and assessment, and related tasks;

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B. fiscal and management activities including report preparation;

C. selection, design, layout, and installation of best management practices;

D. development, review, and inspection of installation, operation, and maintenance procedures for best management practices;

E. development and implementation of public education materials and activities;

F. development and implementation of official controls;

G. acquisition of easements and property; and

H. other activities determined by the agency or established by federal regulation to be necessary to develop and implement the project.

Subp. 3. **Ineligible costs.** Ineligible costs include any costs that are not related to the activities in subpart 2. In addition, the following costs are ineligible whether or not they relate to the activities in subpart 2:

A. installation of best management practices before the grant award;

B. operation and maintenance of best management practices;

C. activities regulated by the National Pollutant Discharge Elimination System permit program, parts 7001.1000 to 7001.1100; the State Disposal System permit program; the Petroleum Tank Release Clean-up 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;

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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.

7076.0140 NOTICE OF GRANT AVAILABILITY.

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Subpart 1. **Notice.** The agency will publish in the State Register a notice that applications for project development grants and project implementation grants will be accepted whenever the agency determines that funds are available to award the grants. The notice will contain a deadline for application submittal, which must be no less than 60 days from the date of publication.

Subp. 2. **Notification list.** The agency shall maintain a list of those local governmental bodies that wish to be notified of grant application periods. Any local governmental body that wishes to be placed on the list shall notify the agency by writing to the director of the public information office. Whenever the agency publishes notice in the State Register, the agency shall mail notice of the grant application period to those local governmental bodies on the list.

Subp. 3. **Grant application periods.** The agency may establish a grant application period from time to time but there must be at least one application period each calendar year if funds are available.

7076.0150 GRANT APPLICATION.

Subpart 1. **General requirements.** The grant application must be submitted by the local unit of government that will be the project sponsor. A grant application must be submitted in a timely fashion to be considered. The grant application must be submitted on a form provided by the agency and must contain the information required in the form and by this part.

Subp. 2. **Project development grant.** An applicant submitting an application for a project development grant must submit the following information:

A. a resolution by the local unit of government that will be the project sponsor, authorizing the filing of the application and designating an official authorized to execute the grant application, the grant contract, and other related project documents;

B. written documentation that the project sponsor has

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consulted with soil and water conservation districts and watershed districts in the project area, in preparing the grant application;

C. identification of agencies and organizations that will be involved in project development;

D. resolutions from each participating local unit of government which identifies their role in project development and identification of their contribution to the local share of project development costs;

E. the amount of grant funding requested;

F. a list identifying the amount, type, and source of the local share;

G. a work plan and schedule that contain the following:

(1) the identification of each water of the state that will be affected by the project;

(2) a description of the existing or potential surface and ground water problems that are to be addressed in the project;

(3) a work plan listing the activities that the grant would make possible; and

(4) a schedule containing milestones for project development;

H. a local water plan that provides an inventory of existing physical and hydrologic information on the project area, a general identification of water quality problems, and goals for resource use, and demonstrates a local commitment to water quality protection or improvements; and

I. documents required by state or federal statutes, rules, and regulations.

Subp. 3. **Project implementation grant.** An applicant submitting an application for a project implementation grant shall submit the following information:

A. a resolution by the local unit of government that will be the project sponsor, authorizing the filing of the application and designating an official authorized to execute

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the grant application, the grant contract, and other related project documents;

B. written documentation that the project sponsor has consulted with soil and water conservation districts and watershed districts in the project area, in preparing the grant application;

C. a diagnostic study and implementation plan approved under part 7076.0260, or an equivalent study and plan that addresses the requirements of a diagnostic study and implementation plan and that has been approved under part 7076.0260 and which contains a local water plan that provides an inventory of existing physical and hydrologic information on the project area, a general identification of water quality problems, and goals for resource use, and demonstrates a local commitment to water quality protection or improvements;

D. resolutions from each participating local unit of government that identify their role in project implementation and their contribution to the local share of project implementation costs;

E. a detailed work plan and schedule for project implementation during the grant period;

F. a detailed budget for the grant period including the identification of the amount requested in the grant;

G. a list identifying the amount, type, and source of the local share;

H. a description of the work and the budget for project implementation beyond the grant period, including an indication of whether the project sponsor anticipates applying for a project continuation grant amendment; and

I. documents required by state or federal statutes, rules, and regulations.

7076.0160 REJECTION OF GRANT APPLICATION.

Subpart 1. **Grounds.** An application for a project development grant or a project implementation grant may be rejected by the commissioner for the following reasons:

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A. an ineligible applicant;

B. ineligible costs;

C. a late submittal; or

D. failure to comply with any requirement of statute or rule.

Subp. 2. **Procedure.** The commissioner shall review each grant application within 30 days after the deadline for application submittal. The commissioner shall notify each rejected grant applicant of the rejection of its application and the reasons for the rejection.

Subp. 3. **Effect of rejection.** A grant applicant whose application is rejected for a reason other than for late submittal has 14 days from receipt of the notice of rejection to correct any deficiencies, if correction is possible. If the application is corrected within the 14 days, the application must be accepted and the project must be ranked with other approved grant applications. An application that cannot be or is not corrected must not be further considered. A grant applicant whose application is rejected and not corrected must reapply in a subsequent application period in order to be considered for a grant.

7076.0170 PROJECT RANKING.

Subpart 1. **Process of ranking.** Upon completion of the commissioner's review of the grant applications for acceptability, the agency shall rank the acceptable grant applications in order of priority. Each project for which an acceptable grant application has been submitted must be awarded the number of priority points the project is entitled to under subparts 2 and 3. The project with the highest number of priority points will be given the highest priority. All projects will be given a ranking depending on the number of points awarded. The project development grant applications must be ranked separately from the project implementation grant applications.

Subp. 2. **Priority points for project development grant**

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applications. The following criteria must be used to determine the number of priority points ~~a project for which a project development grant application has been submitted is entitled~~ to be awarded in the evaluation of each project development grant application. The agency shall award each project between zero and ten points under each of the following criteria, depending on how well the project satisfies the criterion. The number of points awarded under each criterion must be added together to determine the project's total point value. This total number must be used to determine the project's overall ranking and priority. The criteria are as follows:

A. the extent to which the proposed project demonstrates a high potential for project success based on community support and involvement as well as participation, coordination, and cooperation of federal, state, and local agencies and units of government for water quality protection and improvement;

B. the extent to which the proposed project takes place where local units of government have adopted and implemented authorities or official controls to abate or prevent water pollution from nonpoint sources;

C. the extent to which the water of concern is identified as a priority water in the local water plan;

D. the extent to which the proposed project affects waters identified in the statewide resource assessment conducted under Minnesota Statutes, section 115.095, as waters that could not be expected to attain or maintain compliance with applicable water quality standards or goals without additional control of nonpoint sources;

E. the extent to which the project demonstrates a likelihood of transferability to similar resources;

F. the extent to which the project is of a size and scale to promote successful project management and water quality protection and improvement; and

G. the priority placed on each project by the project coordination team.

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Subp. 3. **Priority points for project implementation grant applications.** The following criteria must be used to determine the number of priority points ~~a project for which a project implementation grant application has been submitted is entitled~~ to be awarded in the evaluation of each project implementation grant application. The agency shall award each project between zero and ten points under each of the following criteria, depending on how well the project satisfies the criterion. The number of points under each criterion must be added together to determine the project's total point value. This total number must be used to determine the project's overall ranking and priority. The criteria are as follows:

A. the extent to which the project demonstrates a high potential for successful water quality protection and improvement based on a comparison of existing water quality and the project's goals and objectives with maximum contaminant levels and recommended allowable limits for drinking water, water quality standards, and regional lake and stream water quality criteria published by the agency, the Minnesota Department of Health, and the United States Environmental Protection Agency;

B. the extent to which the project employs best management practices which provide a technically and economically feasible means to abate or prevent water pollution from nonpoint sources;

C. the extent to which the project maximizes water quality protection or improvement relative to the cost of project implementation;

D. the extent to which the project goals and objectives are consistent with state water quality management plans and other applicable state and federal resource management programs;

E. the extent to which the project demonstrates a high potential for project success based on community support and involvement as well as participation, coordination, and cooperation of federal, state, and local agencies and units of

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government for water quality protection and improvement;

F. the extent to which the project demonstrates a significant degree of transferability to similar local units of government; and

G. the priority placed on each project by the project coordination team.

Subp. 4. **Project coordination team.** The project coordination team has 60 days from the close of the application period to assign points to each project seeking a grant. In the event that the project coordination team fails to assign points to all projects with approved grant applications, the projects must be ranked without considering any points under the category for the project coordination team. The project coordination team must use the criteria established in Minnesota Statutes, section 115.098, to assign points to each project seeking a grant.

7076.0180 ALLOCATION OF FUNDING.

Subpart 1. **Project continuation grant amendments.** Each year by March 1, the agency shall determine how much of the available funds will be set aside to meet that year's anticipated requests for project continuation grant amendments. If the agency subsequently determines that the amount set aside for project continuation grant amendments is more than is required for grant amendments in that year, the agency may reallocate this money to other project development grants and project implementation grants or carry over the money to another grant application period.

Subp. 2. **Grant fund allocation.** Within 90 days of the close of an application period, the agency shall determine how much of the remaining funds, after setting aside funds for project continuation grant amendments, will be made available for project development and project implementation grant awards. In deciding how much money to make available for new grant awards, the agency shall consider the necessity to have money available for subsequent grant periods, the necessity to

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have money available for anticipated project continuation grant amendments in the next year, and other factors relating to the agency's ability to ensure that money will be available for upcoming projects.

Subp. 3. **Development; implementation split.** Within 90 days of the close of an application period, the agency shall determine how much of the funds available for new grants in that application period will be available for project development and project implementation grants. In determining the allocation of funds between project development and project implementation grants, the agency shall consider:

A. the availability and conditions for use of federal funds; and

B. the phasing in and continuity of projects in the program.

If the money intended for project development or project implementation grants, or both, is not awarded during a grant period, the agency may reallocate the funds to the other kind of grant or to a subsequent grant period.

7076.0190 SELECTION OF PROJECTS FOR GRANT AWARD.

Subpart 1. **Ranking.** The agency shall complete its ranking of all projects for which an acceptable grant application has been submitted within 90 days of the close of the application period. The agency shall rank development projects separately from implementation projects.

Subp. 2. **Projects funded.** The agency shall select those projects that will be awarded grant funds by awarding grants to the highest priority project development and project implementation applications within the limits of available funds established under part 7076.0180, subpart 2. A project that receives less than 40 points will not be considered for award of grant funds.

Subp. 3. **Agency decision.** All decisions of the agency in ranking projects and awarding grants must be made at a regular or special board meeting.

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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.

7076.0200 PROJECT CONTINUATION GRANT AMENDMENT.

Subpart 1. **Eligibility.** A project sponsor who has been awarded a project implementation grant is eligible for a project continuation grant amendment to continue the project after the expiration of the initial grant. The requirements that applied to the initial grant apply to the project continuation grant amendment. A project sponsor is eligible for one project continuation grant amendment on a particular project.

Subp. 2. **Request.** A project sponsor who seeks a project continuation grant amendment shall submit a request for the grant amendment in the year that the activities funded through the initial project implementation grant will be completed and additional funds will be required to continue project implementation. The request must be submitted on a form provided by the agency and may be submitted at any time during the calendar year the funds will be needed. A project sponsor who fails to submit a request for a project continuation grant amendment in the year the funds are required forfeits the right to an amendment. That project sponsor may apply in a subsequent grant period to continue the project and compete with other applicants for a project implementation grant.

Subp. 3. **Approval.** The agency shall approve the project sponsor's request for a project continuation grant amendment if it meets the following conditions:

A. the project sponsor has satisfied the terms and conditions of the grant to date; and

B. the project sponsor has identified the source of the local share of funds necessary for the project continuation

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grant amendment.

7076.0210 GRANT CONDITIONS.

Subpart 1. **Amount.** A grant that is made must be for the amount requested by the applicant, up to a maximum of 50 percent of the eligible cost of project development or project implementation.

Subp. 2. **Grant period.** The grant period for a project development grant will be for a period of two years. The grant period for a project implementation grant will be for a period of three years and may be extended an additional three years with agency approval of a request for a project continuation grant amendment in accordance with part 7076.0200.

Subp. 3. **Grant contract.** The project sponsor must enter into a contract with the agency before a grant will be awarded. The contract must include the provisions in part 7076.0220.

Subp. 4. **Records.** The project sponsor shall maintain all records relating to the receipt and expenditure of grant funds for a period of at least three years from the date of termination of the grant contract.

Subp. 5. **Audit.** The project sponsor must agree that the books, records, documents, and accounting procedures and practices of the project sponsor relevant to this program may be examined at any time by the commissioner or the commissioner's designee.

Subp. 6. **Annual progress report.** The project sponsor shall submit an annual progress report to the commissioner by February 1 of each year the grant is in effect. The report must include the following information:

A. a discussion of work progress relative to the schedule, and difficulties encountered meeting the schedule during the year;

B. a discussion of the project findings appropriate to the work conducted during the year;

C. a report of expenditures in the year and those anticipated during the upcoming year;

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D. a discussion and summary analysis of monitoring data and a discussion of the changes in water quality that appear to have resulted from the protective and restorative activities implemented during the year; and

E. water quality monitoring data collected during the year in the format required by the agency.

Subp. 7. **Mid-year update.** The project sponsor shall give the commissioner a mid-year update by August 1 of each year the grant is in effect. The mid-year update must include a brief report on project progress and difficulties encountered in meeting the project schedule.

Subp. 8. **Monitoring plan.** The project sponsor shall submit a monitoring plan to the commissioner within 60 days of the award of the grant. The monitoring plan must be revised annually and submitted to the commissioner by January 31. The monitoring plan must comply with part 7076.0230.

Subp. 9. **Diagnostic study and implementation plan.** The project sponsor for a project development grant shall submit to the commissioner before the final grant payment is made a diagnostic study and implementation plan that meets the requirements of parts 7076.0240 and 7076.0250.

Subp. 10. **Eligible costs.** No grant funds shall be used to reimburse the project sponsor for costs incurred after the end of the contract period.

7076.0220 GRANT CONTRACT.

Subpart 1. **Contents.** The agency and the project sponsor shall enter into a grant contract. The grant contract must:

A. establish the terms and conditions of the grant;

B. provide that the project sponsor may enter into contracts, under terms and conditions specified by the agency, to complete the work specified in the contract;

C. provide that the cost overruns are the sole responsibility of the project sponsor;

D. require that the project sponsor submit periodic progress reports and a final report to the agency in a format

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prescribed by the agency; and

E. incorporate terms and conditions required by federal or state statutes, rules, and regulations.

Subp. 2. **Amendments.** A grant contract may be amended upon agreement of the agency and the project sponsor.

Subp. 3. **Contract period.** Grant contracts for project development will be for a period of up to two years. Grant contracts for project implementation will be for a period of up to six years. The agency may allow a one-year extension of either of these grant contracts.

7076.0230 MONITORING PLAN.

Subpart 1. **Requirements.** The monitoring plan required to be submitted to the commissioner as a condition of the grant must:

A. identify and provide rationale for the selection of monitoring sites, monitoring frequency, and parameters to be monitored; and

B. identify laboratories that will do analyses and explain their quality assurance and quality control procedures.

Subp. 2. **Review.** The commissioner will review the monitoring plan and approve it or identify deficiencies in writing within 45 days of its receipt. The project sponsor shall have 15 days to correct any deficiencies.

Subp. 3. **Grant payment.** No grant payment shall be paid after March 31 in any year in which a monitoring plan has not been approved.

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

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methods, procedures, model, and other tools used to prepare and complete the diagnostic study.

Subp. 2. **Description of water of concern.** The diagnostic study must contain a detailed description of the water of concern that includes:

A. a summary of historical uses and changes resulting from water quality degradation;

B. a discussion of previous studies and other historic baseline physical, chemical, and biological data; and

C. current data or information for the following:

(1) if the water of concern is a lake, the description shall include the following:

(a) identification or measurement of lake surface area, maximum depth, average depth, one in ten year low and high as well as average hydraulic residence time, temperature profiles, secchi disk transparencies, the area of the watershed draining to the lake, its tributaries, their estimated contribution to inflows, and a hydrologic budget including groundwater flow;

(b) measurement of dissolved oxygen, total phosphorus, dissolved inorganic phosphorus, total Kjeldahl nitrogen, nitrite plus nitrate nitrogen, total suspended solids, total alkalinity, chloride concentrations, color, pH, and conductivity; determination of mass loadings of total phosphorus, total Kjeldahl nitrogen, and total suspended solids from major tributaries and completion of nutrient and sediment budgets for the lake;

(c) measurement of average summer epilimnetic chlorophyll a, a description of predominant phytoplankton, zooplankton, and submerged, floating, and emergent vascular plant communities; measurement of fecal streptococcus and fecal coliform bacteria where human health may be impacted; and

(d) a summary of available fisheries information;

(2) if the water of concern is a stream, the

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description shall include the following:

(a) identification or measurement of stream length, sinuosity, order, substrate, estimated maximum high flow for 24 consecutive hours that has a recurrence interval of 25 years, mean flow for the available period of record, and annual minimum flow for seven consecutive days that has a recurrence interval of ten years;

(b) measurement of flow and biochemical oxygen demand, total phosphorus, nitrite plus nitrate nitrogen, ammonia nitrogen, organic nitrogen, total dissolved solids, total suspended solids, and diurnal dissolved oxygen concentrations, turbidity, pH, and conductivity;

(c) measurement of fecal streptococcus and fecal coliform bacteria where human health may be impacted; and

(d) completion of invertebrate and fishery assessments using standard benthological and ichthyological techniques; identification of significant biological habitats including riparian vegetation and spawnings areas; and

(3) if the water of concern is an aquifer, the description shall include the following:

(a) identification or measurement of the aquifer physical type, size, temperature, saturated thickness, recharge sources, discharge sources transmissivity, hydraulic residence time, range of hydraulic gradients, and underlying lithology and stratigraphy;

(b) measurement of chemical oxygen demand, total organic carbon, total Kjeldahl nitrogen, ammonia nitrogen, nitrite plus nitrate nitrogen, total phosphorus, chloride, sulfate, calcium, magnesium, iron, manganese, potassium, sodium, bicarbonate, and alkalinity concentrations, oxidation potential, pH, and specific conductance;

(c) measurement of organic compounds, pesticides, and metals in areas where they are pollutants of concern;

(d) measurement of fecal streptococcus and fecal coliform bacteria where human health may be impacted; and

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(4) if the water of concern is water other than a lake, stream, or aquifer, the data and information requirements will be determined jointly by the agency and the project sponsor.

Subp. 3. **Description of project area.** The diagnostic study must contain a detailed description of the project area that includes:

A. a map of the project area;

B. an aerial photo of the project area;

C. maps of general topographic relief based on United States Geological Survey topographic maps;

D. a map of the project area divided into subunits on a hydrologic basis including boundaries and flow directions for each subunit;

E. a description of important aquifer systems, confining layers, and flow characteristics;

F. a description of ground and surface water interconnections, such as recharge and discharge areas;

G. a description of known geologic conditions, such as karst areas, buried valleys, or sand plains that may pose concerns relating to water quality;

H. a description of waters of the state and public drainage ditches, including dams and control structures;

I. soil:

(1) a general soils map and description of soils infiltration characteristics; and

(2) a map of erosion-prone soils;

J. land use:

(1) existing and future land uses;

(2) areas served by storm sewers, sanitary sewers, and public water systems;

(3) the location of community public water supply, intakes, and wells;

(4) irrigated acreage;

(5) domestic animal density and feedlots;

(6) on-site wastewater treatment systems;

(7) existing management practices;

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(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;

(14) wetlands identified under the National Wetlands Inventory and a summary of applicable management plans;

(15) areas delineated as floodplains;

(16) areas with known flooding problems;

(17) a summary of the state ecological and management classifications;

(18) a summary of state management plans for fish and wildlife;

(19) unique features and scenic areas with relationships to water including state designated natural and scientific areas, outstanding resource value waters, areas containing county, state, and federal rare and endangered species and other features such as waterfalls and springs;

(20) the ownership of local, state, and federal Indian tribal lands;

(21) lands with easements that relate to water resources;

(22) population characteristics; and

(23) a summary of recreational land uses;

K. precipitation:

(1) a map and list of the location of precipitation gauging stations in the project area;

(2) a map showing isolines of normal annual total precipitation;

(3) a map showing isolines of normal precipitation in inches for the period May to September; and

(4) a summary of precipitation information for

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the project area; and

L. hydrology:

(1) an estimate of the maximum high flow for 24 consecutive hours that has a recurrence interval of 25 years, mean flow for the available period of record, and annual minimum flow for seven consecutive days that has a recurrence interval of ten years;

(2) a description of permitted withdrawals from lakes and streams, including location, source, use, and amounts withdrawn;

(3) a description of protected levels or flows that have been established for lakes and streams;

(4) a description of known water use conflicts, including those caused by groundwater pumping, that affect surface waters;

(5) a description of wells covered by state appropriation permits including location, amounts of water appropriated, type of use, and aquifer source;

(6) a description of known well interference problems and water use conflicts; and

(7) a list of state observation wells including location, unique well number, aquifers measured, years of record, and average monthly levels.

Subp. 4. **Analysis and assessment.** The diagnostic study must contain an analysis and assessment of the data and information collected as a requirement of subparts 2 and 3 including the following:

A. the identification of existing and potential water quality problems;

B. the identification of water quality goals for the water of concern;

C. the identification of project objectives in terms of:

(1) specific water chemical, biological, and physical measurements; and

(2) economic, recreational, and health factors;

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D. an estimate of the pollutants coming from the subunit of project area defined on a hydrologic basis and the identification of the target levels of pollutant reduction necessary to meet the project objectives and water quality goals; and

E. the identification and ranking of the subunit of the project area defined on a hydrologic basis into priority management areas on which to focus implementation of best management practices.

Subp. 5. **Exemption.** Upon written request from the project sponsor, the agency may allow an exemption from a specific diagnostic study requirement that does not provide data or information useful for diagnosis of the problem or solutions.

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

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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 nonpoint source pollution;

H. a list of any federal ~~or~~, state, or local permits and approvals required to complete the project; and

I. an opinion and supporting documentation from the project sponsor's attorney that the project sponsor and participating local units of government have the legal authority to implement the project.

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

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problems, sources of pollution, and project goals and objectives for water quality protection and improvement;

C. the implementation plan provides a technically feasible means to abate nonpoint sources of water pollution and achieve project objectives; and

D. the diagnostic study and implementation plan are consistent with state and federal statutes, rules, and regulations.

Subp. 2. **Reasons for disapproval.** If the diagnostic study and implementation plan are disapproved, the commissioner shall provide the project sponsor with a written statement of reasons for disapproval.

Subp. 3. **Resubmittal.** A disapproved diagnostic study and implementation plan must be revised by the project sponsor and resubmitted to the commissioner. Upon receipt of the revised diagnostic study and implementation plan, the commissioner shall review the revised diagnostic study and implementation plan.

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.

7076.0280 GRANT PAYMENTS.

Subpart 1. **Reimbursement.** The project sponsor may submit a request for reimbursement of expenditures for each of the

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standard calendar quarters ending March 31, June 30, September 30, and December 31. The agency shall pay the reimbursement within 45 days of the request if the grantee is in compliance with conditions of the grant contract and requirements of parts 7076.0100 to 7076.0290.

Subp. 2. **Final payment.** The agency shall withhold reimbursement on the final ten percent of the grant contract amount until the agency is satisfied that the project has been completed in accordance with the terms of the grant contract and parts 7076.0100 to 7076.0290.

Subp. 3. **Withholding of reimbursement.** The agency may withhold reimbursement if the project sponsor has failed to comply with any requirements of the grant contract or parts 7076.0100 to 7076.0290. The funds will not be released until the agency determines that the project sponsor has corrected the deficiencies causing noncompliance.

Subp. 4. **Advance.** The project sponsor may submit a request for an advance of grant funds after the commissioner approves the project monitoring plan. The advance is limited to ten percent of the grant award or $50,000, whichever amount is less.

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.

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Office of the Revisor of Statutes

Administrative Rules

TITLE: Adopted Permanent Rules Relating to Clean Water Partnership

AGENCY: Pollution Control Agency

MINNESOTA RULES: Chapter 7076

The attached rules are approved for filing with the Secretary of State

David S. Niss
Assistant Revisor

Pollution Control Agency
Water Quality Division

Adopted Permanent Rules Relating to Clean Water Partnership

Rules as Adopted

CHAPTER 7076
MINNESOTA POLLUTION CONTROL AGENCY
WATER QUALITY DIVISION
CLEAN WATER PARTNERSHIP GRANTS

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.

7076.0110 DEFINITIONS.

Subpart 1. **Scope.** The terms used in parts 7076.0100 to 7076.0290 have the meanings given them in Minnesota Statutes, chapters 115 and 116, and rules adopted under those chapters and the meanings given them in this part. If terms defined in this part conflict with the definitions in Minnesota Statutes, chapters 115 and 116 and the rules adopted under those chapters, the definitions in this part govern.

Subp. 2. **Agency.** "Agency" means the Pollution Control Agency.

Subp. 3. **Best management practices.** "Best management practices" has the meaning given it in Minnesota Statutes, section 115.093, subdivision 3.

Subp. 4. **Commissioner.** "Commissioner" means the commissioner of the Pollution Control Agency.

Subp. 5. **Land occupier.** "Land occupier" means a person

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who possesses lands in the project area whether as owner, lessee, renter, tenant, or otherwise, including successors of a land occupier who received a payment during the minimum effective life of a best management practice.

Subp. 6. **Local share.** "Local share" means the contributions of a local unit of government to the eligible cost of a project, including the value of cash expenditures and in-kind contributions of labor, equipment, material, and real property used for and expended on eligible project activities.

Subp. 7. **Local unit of government.** "Local unit of government" has the meaning given it in Minnesota Statutes, section 115.093, subdivision 5.

Subp. 8. **Local water plan.** "Local water plan" means a comprehensive water plan authorized under Minnesota Statutes, chapter 110B; a surface water management plan required under Minnesota Statutes, section 473.878; an overall plan required under Minnesota Statutes, chapter 112; or until July 1, 1991, any other local plan that provides an inventory of existing physical and hydrologic information on the area, a general identification of water quality problems and goals, and that demonstrates a local commitment to water quality protection or improvement.

Subp. 9. **Nonpoint source.** "Nonpoint source" has the meaning given it in Minnesota Statutes, section 115.093, subdivision 6.

Subp. 10. **Official controls.** "Official controls" has the meaning given it in Minnesota Statutes, section 115.093, subdivision 7.

Subp. 11. **Person.** "Person" has the meaning given it in Minnesota Statutes, section 115.01, subdivision 10.

Subp. 12. **Project.** "Project" has the meaning given it in Minnesota Statutes, section 115.093, subdivision 8.

Subp. 13. **Project area.** "Project area" means the area identified as hydrologically contributing to the water of concern for which the diagnostic study and implementation plan are developed and implemented.

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Subp. 14. **Project continuation grant amendment.** "Project continuation grant amendment" means an amendment to an existing project implementation grant to provide funds to continue implementation of activities identified in an approved diagnostic study and implementation plan that were not funded in the initial project implementation grant.

Subp. 15. **Project coordination team.** "Project coordination team" means the public interagency group established in Minnesota Statutes, section 115.103, subdivision 1.

Subp. 16. **Project development.** "Project development" means the development of a diagnostic study and implementation plan.

Subp. 17. **Project development grant.** "Project development grant" means a grant from the agency to the project sponsor for the preparation of a diagnostic study and implementation plan.

Subp. 18. **Project implementation.** "Project implementation" means the implementation of an approved diagnostic study and implementation plan or their equivalent.

Subp. 19. **Project implementation grant.** "Project implementation grant" means a grant from the agency to the project sponsor for the implementation of a diagnostic study and implementation plan or their equivalent.

Subp. 20. **Project sponsor.** "Project sponsor" means the local unit of government that applies for a grant, enters into a grant contract, and is responsible for development and implementation of the project.

Subp. 21. **Water pollution.** "Water pollution" has the meaning given it in Minnesota Statutes, section 115.01, subdivision 5.

Subp. 22. **Waters of the state.** "Waters of the state" has the meaning given it in Minnesota Statutes, section 115.01, subdivision 9.

Subp. 23. **Water of concern.** "Water of concern" means the specific water of the state which the project is focused on improving or protecting.

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7076.0120 AVAILABLE ASSISTANCE.

Subpart 1. **Financial assistance.** There are two types of grants available for nonpoint source projects: (1) project development grants, and (2) project implementation grants. The grants are for a maximum of 50 percent of the eligible cost of the project. Grants must be awarded, within the limits of available appropriations, to those applicants having the highest priority.

Subp. 2. **Technical assistance.** The agency may provide technical assistance to local units of government in order to ensure efficient and effective development and implementation of projects. Technical assistance must be given to local units of government that receive grants, within the limits of available resources.

7076.0130 ELIGIBILITY CRITERIA.

Subpart 1. **Eligible applicants.** Only local units of government are eligible to apply for grants and receive technical assistance. A local unit of government is eligible to apply for state matching grants and request technical assistance if it has the following:

A. the authority to coordinate and enter into contracts with local, state, and federal agencies and private organizations for the purpose of carrying out a project;

B. the authority to generate cash revenues and in-kind contributions for the local share of a project; and

C. the authority to adopt, implement, and enforce official controls.

Subp. 2. **Eligible costs.** Project costs are eligible for state matching grants if the costs are reasonable and necessary and allowable 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;

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B. fiscal and management activities including report preparation;

C. selection, design, layout, and installation of best management practices;

D. development, review, and inspection of installation, operation, and maintenance procedures for best management practices;

E. development and implementation of public education materials and activities;

F. development and implementation of official controls;

G. acquisition of easements and property; and

H. other activities determined by the agency or established by federal regulation to be necessary to develop and implement the project.

Subp. 3. **Ineligible costs.** Ineligible costs include any costs that are not related to the activities in subpart 2. In addition, the following costs are ineligible whether or not they relate to the activities in subpart 2:

A. installation of best management practices before the grant award;

B. operation and maintenance of best management practices;

C. activities regulated by the National Pollutant Discharge Elimination System permit program, parts 7001.1000 to 7001.1100; the State Disposal System permit program; the Petroleum Tank Release Clean-up 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;

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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.

7076.0140 NOTICE OF GRANT AVAILABILITY.

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Subpart 1. **Notice.** The agency will publish in the State Register a notice that applications for project development grants and project implementation grants will be accepted whenever the agency determines that funds are available to award the grants. The notice will contain a deadline for application submittal, which must be no less than 60 days from the date of publication.

Subp. 2. **Notification list.** The agency shall maintain a list of those local governmental bodies that wish to be notified of grant application periods. Any local governmental body that wishes to be placed on the list shall notify the agency by writing to the director of the public information office. Whenever the agency publishes notice in the State Register, the agency shall mail notice of the grant application period to those local governmental bodies on the list.

Subp. 3. **Grant application periods.** The agency may establish a grant application period from time to time but there must be at least one application period each calendar year if funds are available.

7076.0150 GRANT APPLICATION.

Subpart 1. **General requirements.** The grant application must be submitted by the local unit of government that will be the project sponsor. A grant application must be submitted in a timely fashion to be considered. The grant application must be submitted on a form provided by the agency and must contain the information required in the form and by this part.

Subp. 2. **Project development grant.** An applicant submitting an application for a project development grant must submit the following information:

A. a resolution by the local unit of government that will be the project sponsor, authorizing the filing of the application and designating an official authorized to execute the grant application, the grant contract, and other related project documents;

B. written documentation that the project sponsor has

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consulted with soil and water conservation districts and watershed districts in the project area, in preparing the grant application;

C. identification of agencies and organizations that will be involved in project development;

D. resolutions from each participating local unit of government which identifies their role in project development and identification of their contribution to the local share of project development costs;

E. the amount of grant funding requested;

F. a list identifying the amount, type, and source of the local share;

G. a work plan and schedule that contain the following:

(1) the identification of each water of the state that will be affected by the project;

(2) a description of the existing or potential surface and ground water problems that are to be addressed in the project;

(3) a work plan listing the activities that the grant would make possible; and

(4) a schedule containing milestones for project development;

H. a local water plan that provides an inventory of existing physical and hydrologic information on the project area, a general identification of water quality problems, and goals for resource use, and demonstrates a local commitment to water quality protection or improvements; and

I. documents required by state or federal statutes, rules, and regulations.

Subp. 3. **Project implementation grant.** An applicant submitting an application for a project implementation grant shall submit the following information:

A. a resolution by the local unit of government that will be the project sponsor, authorizing the filing of the application and designating an official authorized to execute

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the grant application, the grant contract, and other related project documents;

B. written documentation that the project sponsor has consulted with soil and water conservation districts and watershed districts in the project area, in preparing the grant application;

C. a diagnostic study and implementation plan approved under part 7076.0260, or an equivalent study and plan that addresses the requirements of a diagnostic study and implementation plan and that has been approved under part 7076.0260 and which contains a local water plan that provides an inventory of existing physical and hydrologic information on the project area, a general identification of water quality problems, and goals for resource use, and demonstrates a local commitment to water quality protection or improvements;

D. resolutions from each participating local unit of government that identify their role in project implementation and their contribution to the local share of project implementation costs;

E. a detailed work plan and schedule for project implementation during the grant period;

F. a detailed budget for the grant period including the identification of the amount requested in the grant;

G. a list identifying the amount, type, and source of the local share;

H. a description of the work and the budget for project implementation beyond the grant period, including an indication of whether the project sponsor anticipates applying for a project continuation grant amendment; and

I. documents required by state or federal statutes, rules, and regulations.

7076.0160 REJECTION OF GRANT APPLICATION.

Subpart 1. **Grounds.** An application for a project development grant or a project implementation grant may be rejected by the commissioner for the following reasons:

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A. an ineligible applicant;

B. ineligible costs;

C. a late submittal; or

D. failure to comply with any requirement of statute or rule.

Subp. 2. **Procedure.** The commissioner shall review each grant application within 30 days after the deadline for application submittal. The commissioner shall notify each rejected grant applicant of the rejection of its application and the reasons for the rejection.

Subp. 3. **Effect of rejection.** A grant applicant whose application is rejected for a reason other than for late submittal has 14 days from receipt of the notice of rejection to correct any deficiencies, if correction is possible. If the application is corrected within the 14 days, the application must be accepted and the project must be ranked with other approved grant applications. An application that cannot be or is not corrected must not be further considered. A grant applicant whose application is rejected and not corrected must reapply in a subsequent application period in order to be considered for a grant.

7076.0170 PROJECT RANKING.

Subpart 1. **Process of ranking.** Upon completion of the commissioner's review of the grant applications for acceptability, the agency shall rank the acceptable grant applications in order of priority. Each project for which an acceptable grant application has been submitted must be awarded the number of priority points the project is entitled to under subparts 2 and 3. The project with the highest number of priority points will be given the highest priority. All projects will be given a ranking depending on the number of points awarded. The project development grant applications must be ranked separately from the project implementation grant applications.

Subp. 2. **Priority points for project development grant**

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applications. The following criteria must be used to determine the number of priority points ~~a project for which a project development grant application has been submitted is entitled~~ to be awarded in the evaluation of each project development grant application. The agency shall award each project between zero and ten points under each of the following criteria, depending on how well the project satisfies the criterion. The number of points awarded under each criterion must be added together to determine the project's total point value. This total number must be used to determine the project's overall ranking and priority. The criteria are as follows:

A. the extent to which the proposed project demonstrates a high potential for project success based on community support and involvement as well as participation, coordination, and cooperation of federal, state, and local agencies and units of government for water quality protection and improvement;

B. the extent to which the proposed project takes place where local units of government have adopted and implemented authorities or official controls to abate or prevent water pollution from nonpoint sources;

C. the extent to which the water of concern is identified as a priority water in the local water plan;

D. the extent to which the proposed project affects waters identified in the statewide resource assessment conducted under Minnesota Statutes, section 115.095, as waters that could not be expected to attain or maintain compliance with applicable water quality standards or goals without additional control of nonpoint sources;

E. the extent to which the project demonstrates a likelihood of transferability to similar resources;

F. the extent to which the project is of a size and scale to promote successful project management and water quality protection and improvement; and

G. the priority placed on each project by the project coordination team.

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Subp. 3. **Priority points for project implementation grant applications.** The following criteria must be used to determine the number of priority points ~~a project for which a project implementation grant application has been submitted is entitled~~ to be awarded in the evaluation of each project implementation grant application. The agency shall award each project between zero and ten points under each of the following criteria, depending on how well the project satisfies the criterion. The number of points under each criterion must be added together to determine the project's total point value. This total number must be used to determine the project's overall ranking and priority. The criteria are as follows:

A. the extent to which the project demonstrates a high potential for successful water quality protection and improvement based on a comparison of existing water quality and the project's goals and objectives with maximum contaminant levels and recommended allowable limits for drinking water, water quality standards, and regional lake and stream water quality criteria published by the agency, the Minnesota Department of Health, and the United States Environmental Protection Agency;

B. the extent to which the project employs best management practices which provide a technically and economically feasible means to abate or prevent water pollution from nonpoint sources;

C. the extent to which the project maximizes water quality protection or improvement relative to the cost of project implementation;

D. the extent to which the project goals and objectives are consistent with state water quality management plans and other applicable state and federal resource management programs;

E. the extent to which the project demonstrates a high potential for project success based on community support and involvement as well as participation, coordination, and cooperation of federal, state, and local agencies and units of

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government for water quality protection and improvement;

F. the extent to which the project demonstrates a significant degree of transferability to similar local units of government; and

G. the priority placed on each project by the project coordination team.

Subp. 4. **Project coordination team.** The project coordination team has 60 days from the close of the application period to assign points to each project seeking a grant. In the event that the project coordination team fails to assign points to all projects with approved grant applications, the projects must be ranked without considering any points under the category for the project coordination team. The project coordination team must use the criteria established in Minnesota Statutes, section 115.098, to assign points to each project seeking a grant.

7076.0180 ALLOCATION OF FUNDING.

Subpart 1. **Project continuation grant amendments.** Each year by March 1, the agency shall determine how much of the available funds will be set aside to meet that year's anticipated requests for project continuation grant amendments. If the agency subsequently determines that the amount set aside for project continuation grant amendments is more than is required for grant amendments in that year, the agency may reallocate this money to other project development grants and project implementation grants or carry over the money to another grant application period.

Subp. 2. **Grant fund allocation.** Within 90 days of the close of an application period, the agency shall determine how much of the remaining funds, after setting aside funds for project continuation grant amendments, will be made available for project development and project implementation grant awards. In deciding how much money to make available for new grant awards, the agency shall consider the necessity to have money available for subsequent grant periods, the necessity to

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have money available for anticipated project continuation grant amendments in the next year, and other factors relating to the agency's ability to ensure that money will be available for upcoming projects.

Subp. 3. **Development; implementation split.** Within 90 days of the close of an application period, the agency shall determine how much of the funds available for new grants in that application period will be available for project development and project implementation grants. In determining the allocation of funds between project development and project implementation grants, the agency shall consider:

A. the availability and conditions for use of federal funds; and

B. the phasing in and continuity of projects in the program.

If the money intended for project development or project implementation grants, or both, is not awarded during a grant period, the agency may reallocate the funds to the other kind of grant or to a subsequent grant period.

7076.0190 SELECTION OF PROJECTS FOR GRANT AWARD.

Subpart 1. **Ranking.** The agency shall complete its ranking of all projects for which an acceptable grant application has been submitted within 90 days of the close of the application period. The agency shall rank development projects separately from implementation projects.

Subp. 2. **Projects funded.** The agency shall select those projects that will be awarded grant funds by awarding grants to the highest priority project development and project implementation applications within the limits of available funds established under part 7076.0180, subpart 2. A project that receives less than 40 points will not be considered for award of grant funds.

Subp. 3. **Agency decision.** All decisions of the agency in ranking projects and awarding grants must be made at a regular or special board meeting.

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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.

7076.0200 PROJECT CONTINUATION GRANT AMENDMENT.

Subpart 1. **Eligibility.** A project sponsor who has been awarded a project implementation grant is eligible for a project continuation grant amendment to continue the project after the expiration of the initial grant. The requirements that applied to the initial grant apply to the project continuation grant amendment. A project sponsor is eligible for one project continuation grant amendment on a particular project.

Subp. 2. **Request.** A project sponsor who seeks a project continuation grant amendment shall submit a request for the grant amendment in the year that the activities funded through the initial project implementation grant will be completed and additional funds will be required to continue project implementation. The request must be submitted on a form provided by the agency and may be submitted at any time during the calendar year the funds will be needed. A project sponsor who fails to submit a request for a project continuation grant amendment in the year the funds are required forfeits the right to an amendment. That project sponsor may apply in a subsequent grant period to continue the project and compete with other applicants for a project implementation grant.

Subp. 3. **Approval.** The agency shall approve the project sponsor's request for a project continuation grant amendment if it meets the following conditions:

A. the project sponsor has satisfied the terms and conditions of the grant to date; and

B. the project sponsor has identified the source of the local share of funds necessary for the project continuation

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grant amendment.

7076.0210 GRANT CONDITIONS.

Subpart 1. **Amount.** A grant that is made must be for the amount requested by the applicant, up to a maximum of 50 percent of the eligible cost of project development or project implementation.

Subp. 2. **Grant period.** The grant period for a project development grant will be for a period of two years. The grant period for a project implementation grant will be for a period of three years and may be extended an additional three years with agency approval of a request for a project continuation grant amendment in accordance with part 7076.0200.

Subp. 3. **Grant contract.** The project sponsor must enter into a contract with the agency before a grant will be awarded. The contract must include the provisions in part 7076.0220.

Subp. 4. **Records.** The project sponsor shall maintain all records relating to the receipt and expenditure of grant funds for a period of at least three years from the date of termination of the grant contract.

Subp. 5. **Audit.** The project sponsor must agree that the books, records, documents, and accounting procedures and practices of the project sponsor relevant to this program may be examined at any time by the commissioner or the commissioner's designee.

Subp. 6. **Annual progress report.** The project sponsor shall submit an annual progress report to the commissioner by February 1 of each year the grant is in effect. The report must include the following information:

A. a discussion of work progress relative to the schedule, and difficulties encountered meeting the schedule during the year;

B. a discussion of the project findings appropriate to the work conducted during the year;

C. a report of expenditures in the year and those anticipated during the upcoming year;

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D. a discussion and summary analysis of monitoring data and a discussion of the changes in water quality that appear to have resulted from the protective and restorative activities implemented during the year; and

E. water quality monitoring data collected during the year in the format required by the agency.

Subp. 7. **Mid-year update.** The project sponsor shall give the commissioner a mid-year update by August 1 of each year the grant is in effect. The mid-year update must include a brief report on project progress and difficulties encountered in meeting the project schedule.

Subp. 8. **Monitoring plan.** The project sponsor shall submit a monitoring plan to the commissioner within 60 days of the award of the grant. The monitoring plan must be revised annually and submitted to the commissioner by January 31. The monitoring plan must comply with part 7076.0230.

Subp. 9. **Diagnostic study and implementation plan.** The project sponsor for a project development grant shall submit to the commissioner before the final grant payment is made a diagnostic study and implementation plan that meets the requirements of parts 7076.0240 and 7076.0250.

Subp. 10. **Eligible costs.** No grant funds shall be used to reimburse the project sponsor for costs incurred after the end of the contract period.

7076.0220 GRANT CONTRACT.

Subpart 1. **Contents.** The agency and the project sponsor shall enter into a grant contract. The grant contract must:

A. establish the terms and conditions of the grant;

B. provide that the project sponsor may enter into contracts, under terms and conditions specified by the agency, to complete the work specified in the contract;

C. provide that the cost overruns are the sole responsibility of the project sponsor;

D. require that the project sponsor submit periodic progress reports and a final report to the agency in a format

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prescribed by the agency; and

E. incorporate terms and conditions required by federal or state statutes, rules, and regulations.

Subp. 2. **Amendments.** A grant contract may be amended upon agreement of the agency and the project sponsor.

Subp. 3. **Contract period.** Grant contracts for project development will be for a period of up to two years. Grant contracts for project implementation will be for a period of up to six years. The agency may allow a one-year extension of either of these grant contracts.

7076.0230 MONITORING PLAN.

Subpart 1. **Requirements.** The monitoring plan required to be submitted to the commissioner as a condition of the grant must:

A. identify and provide rationale for the selection of monitoring sites, monitoring frequency, and parameters to be monitored; and

B. identify laboratories that will do analyses and explain their quality assurance and quality control procedures.

Subp. 2. **Review.** The commissioner will review the monitoring plan and approve it or identify deficiencies in writing within 45 days of its receipt. The project sponsor shall have 15 days to correct any deficiencies.

Subp. 3. **Grant payment.** No grant payment shall be paid after March 31 in any year in which a monitoring plan has not been approved.

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

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methods, procedures, model, and other tools used to prepare and complete the diagnostic study.

Subp. 2. **Description of water of concern.** The diagnostic study must contain a detailed description of the water of concern that includes:

A. a summary of historical uses and changes resulting from water quality degradation;

B. a discussion of previous studies and other historic baseline physical, chemical, and biological data; and

C. current data or information for the following:

(1) if the water of concern is a lake, the description shall include the following:

(a) identification or measurement of lake surface area, maximum depth, average depth, one in ten year low and high as well as average hydraulic residence time, temperature profiles, secchi disk transparencies, the area of the watershed draining to the lake, its tributaries, their estimated contribution to inflows, and a hydrologic budget including groundwater flow;

(b) measurement of dissolved oxygen, total phosphorus, dissolved inorganic phosphorus, total Kjeldahl nitrogen, nitrite plus nitrate nitrogen, total suspended solids, total alkalinity, chloride concentrations, color, pH, and conductivity; determination of mass loadings of total phosphorus, total Kjeldahl nitrogen, and total suspended solids from major tributaries and completion of nutrient and sediment budgets for the lake;

(c) measurement of average summer epilimnetic chlorophyll a, a description of predominant phytoplankton, zooplankton, and submerged, floating, and emergent vascular plant communities; measurement of fecal streptococcus and fecal coliform bacteria where human health may be impacted; and

(d) a summary of available fisheries information;

(2) if the water of concern is a stream, the

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description shall include the following:

(a) identification or measurement of stream length, sinuosity, order, substrate, estimated maximum high flow for 24 consecutive hours that has a recurrence interval of 25 years, mean flow for the available period of record, and annual minimum flow for seven consecutive days that has a recurrence interval of ten years;

(b) measurement of flow and biochemical oxygen demand, total phosphorus, nitrite plus nitrate nitrogen, ammonia nitrogen, organic nitrogen, total dissolved solids, total suspended solids, and diurnal dissolved oxygen concentrations, turbidity, pH, and conductivity;

(c) measurement of fecal streptococcus and fecal coliform bacteria where human health may be impacted; and

(d) completion of invertebrate and fishery assessments using standard benthological and ichthyological techniques; identification of significant biological habitats including riparian vegetation and spawnings areas; and

(3) if the water of concern is an aquifer, the description shall include the following:

(a) identification or measurement of the aquifer physical type, size, temperature, saturated thickness, recharge sources, discharge sources transmissivity, hydraulic residence time, range of hydraulic gradients, and underlying lithology and stratigraphy;

(b) measurement of chemical oxygen demand, total organic carbon, total Kjeldahl nitrogen, ammonia nitrogen, nitrite plus nitrate nitrogen, total phosphorus, chloride, sulfate, calcium, magnesium, iron, manganese, potassium, sodium, bicarbonate, and alkalinity concentrations, oxidation potential, pH, and specific conductance;

(c) measurement of organic compounds, pesticides, and metals in areas where they are pollutants of concern;

(d) measurement of fecal streptococcus and fecal coliform bacteria where human health may be impacted; and

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(4) if the water of concern is water other than a lake, stream, or aquifer, the data and information requirements will be determined jointly by the agency and the project sponsor.

Subp. 3. **Description of project area.** The diagnostic study must contain a detailed description of the project area that includes:

A. a map of the project area;

B. an aerial photo of the project area;

C. maps of general topographic relief based on United States Geological Survey topographic maps;

D. a map of the project area divided into subunits on a hydrologic basis including boundaries and flow directions for each subunit;

E. a description of important aquifer systems, confining layers, and flow characteristics;

F. a description of ground and surface water interconnections, such as recharge and discharge areas;

G. a description of known geologic conditions, such as karst areas, buried valleys, or sand plains that may pose concerns relating to water quality;

H. a description of waters of the state and public drainage ditches, including dams and control structures;

I. soil:

(1) a general soils map and description of soils infiltration characteristics; and

(2) a map of erosion-prone soils;

J. land use:

(1) existing and future land uses;

(2) areas served by storm sewers, sanitary sewers, and public water systems;

(3) the location of community public water supply, intakes, and wells;

(4) irrigated acreage;

(5) domestic animal density and feedlots;

(6) on-site wastewater treatment systems;

(7) existing management practices;

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(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;

(14) wetlands identified under the National Wetlands Inventory and a summary of applicable management plans;

(15) areas delineated as floodplains;

(16) areas with known flooding problems;

(17) a summary of the state ecological and management classifications;

(18) a summary of state management plans for fish and wildlife;

(19) unique features and scenic areas with relationships to water including state designated natural and scientific areas, outstanding resource value waters, areas containing county, state, and federal rare and endangered species and other features such as waterfalls and springs;

(20) the ownership of local, state, and federal Indian tribal lands;

(21) lands with easements that relate to water resources;

(22) population characteristics; and

(23) a summary of recreational land uses;

K. precipitation:

(1) a map and list of the location of precipitation gauging stations in the project area;

(2) a map showing isolines of normal annual total precipitation;

(3) a map showing isolines of normal precipitation in inches for the period May to September; and

(4) a summary of precipitation information for

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the project area; and

L. hydrology:

(1) an estimate of the maximum high flow for 24 consecutive hours that has a recurrence interval of 25 years, mean flow for the available period of record, and annual minimum flow for seven consecutive days that has a recurrence interval of ten years;

(2) a description of permitted withdrawals from lakes and streams, including location, source, use, and amounts withdrawn;

(3) a description of protected levels or flows that have been established for lakes and streams;

(4) a description of known water use conflicts, including those caused by groundwater pumping, that affect surface waters;

(5) a description of wells covered by state appropriation permits including location, amounts of water appropriated, type of use, and aquifer source;

(6) a description of known well interference problems and water use conflicts; and

(7) a list of state observation wells including location, unique well number, aquifers measured, years of record, and average monthly levels.

Subp. 4. **Analysis and assessment.** The diagnostic study must contain an analysis and assessment of the data and information collected as a requirement of subparts 2 and 3 including the following:

A. the identification of existing and potential water quality problems;

B. the identification of water quality goals for the water of concern;

C. the identification of project objectives in terms of:

(1) specific water chemical, biological, and physical measurements; and

(2) economic, recreational, and health factors;

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D. an estimate of the pollutants coming from the subunit of project area defined on a hydrologic basis and the identification of the target levels of pollutant reduction necessary to meet the project objectives and water quality goals; and

E. the identification and ranking of the subunit of the project area defined on a hydrologic basis into priority management areas on which to focus implementation of best management practices.

Subp. 5. **Exemption.** Upon written request from the project sponsor, the agency may allow an exemption from a specific diagnostic study requirement that does not provide data or information useful for diagnosis of the problem or solutions.

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

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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 nonpoint source pollution;

H. a list of any federal ~~or~~, state, or local permits and approvals required to complete the project; and

I. an opinion and supporting documentation from the project sponsor's attorney that the project sponsor and participating local units of government have the legal authority to implement the project.

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

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problems, sources of pollution, and project goals and objectives for water quality protection and improvement;

C. the implementation plan provides a technically feasible means to abate nonpoint sources of water pollution and achieve project objectives; and

D. the diagnostic study and implementation plan are consistent with state and federal statutes, rules, and regulations.

Subp. 2. **Reasons for disapproval.** If the diagnostic study and implementation plan are disapproved, the commissioner shall provide the project sponsor with a written statement of reasons for disapproval.

Subp. 3. **Resubmittal.** A disapproved diagnostic study and implementation plan must be revised by the project sponsor and resubmitted to the commissioner. Upon receipt of the revised diagnostic study and implementation plan, the commissioner shall review the revised diagnostic study and implementation plan.

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.

7076.0280 GRANT PAYMENTS.

Subpart 1. **Reimbursement.** The project sponsor may submit a request for reimbursement of expenditures for each of the

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standard calendar quarters ending March 31, June 30, September 30, and December 31. The agency shall pay the reimbursement within 45 days of the request if the grantee is in compliance with conditions of the grant contract and requirements of parts 7076.0100 to 7076.0290.

Subp. 2. **Final payment.** The agency shall withhold reimbursement on the final ten percent of the grant contract amount until the agency is satisfied that the project has been completed in accordance with the terms of the grant contract and parts 7076.0100 to 7076.0290.

Subp. 3. **Withholding of reimbursement.** The agency may withhold reimbursement if the project sponsor has failed to comply with any requirements of the grant contract or parts 7076.0100 to 7076.0290. The funds will not be released until the agency determines that the project sponsor has corrected the deficiencies causing noncompliance.

Subp. 4. **Advance.** The project sponsor may submit a request for an advance of grant funds after the commissioner approves the project monitoring plan. The advance is limited to ten percent of the grant award or $50,000, whichever amount is less.

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.

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Office of the Revisor of Statutes

Administrative Rules

TITLE: Adopted Permanent Rules Relating to Clean Water Partnership

AGENCY: Pollution Control Agency

MINNESOTA RULES: Chapter 7076

The attached rules are approved for filing with the Secretary of State

David S. Niss
Assistant Revisor

Pollution Control Agency

Water Quality Division

Adopted Permanent Rules Relating to Clean Water Partnership

Rules as Adopted

CHAPTER 7076
MINNESOTA POLLUTION CONTROL AGENCY
WATER QUALITY DIVISION
CLEAN WATER PARTNERSHIP GRANTS

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.

7076.0110 DEFINITIONS.

Subpart 1. **Scope.** The terms used in parts 7076.0100 to 7076.0290 have the meanings given them in Minnesota Statutes, chapters 115 and 116, and rules adopted under those chapters and the meanings given them in this part. If terms defined in this part conflict with the definitions in Minnesota Statutes, chapters 115 and 116 and the rules adopted under those chapters, the definitions in this part govern.

Subp. 2. **Agency.** "Agency" means the Pollution Control Agency.

Subp. 3. **Best management practices.** "Best management practices" has the meaning given it in Minnesota Statutes, section 115.093, subdivision 3.

Subp. 4. **Commissioner.** "Commissioner" means the commissioner of the Pollution Control Agency.

Subp. 5. **Land occupier.** "Land occupier" means a person

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who possesses lands in the project area whether as owner, lessee, renter, tenant, or otherwise, including successors of a land occupier who received a payment during the minimum effective life of a best management practice.

Subp. 6. **Local share.** "Local share" means the contributions of a local unit of government to the eligible cost of a project, including the value of cash expenditures and in-kind contributions of labor, equipment, material, and real property used for and expended on eligible project activities.

Subp. 7. **Local unit of government.** "Local unit of government" has the meaning given it in Minnesota Statutes, section 115.093, subdivision 5.

Subp. 8. **Local water plan.** "Local water plan" means a comprehensive water plan authorized under Minnesota Statutes, chapter 110B; a surface water management plan required under Minnesota Statutes, section 473.878; an overall plan required under Minnesota Statutes, chapter 112; or until July 1, 1991, any other local plan that provides an inventory of existing physical and hydrologic information on the area, a general identification of water quality problems and goals, and that demonstrates a local commitment to water quality protection or improvement.

Subp. 9. **Nonpoint source.** "Nonpoint source" has the meaning given it in Minnesota Statutes, section 115.093, subdivision 6.

Subp. 10. **Official controls.** "Official controls" has the meaning given it in Minnesota Statutes, section 115.093, subdivision 7.

Subp. 11. **Person.** "Person" has the meaning given it in Minnesota Statutes, section 115.01, subdivision 10.

Subp. 12. **Project.** "Project" has the meaning given it in Minnesota Statutes, section 115.093, subdivision 8.

Subp. 13. **Project area.** "Project area" means the area identified as hydrologically contributing to the water of concern for which the diagnostic study and implementation plan are developed and implemented.

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Subp. 14. **Project continuation grant amendment.** "Project continuation grant amendment" means an amendment to an existing project implementation grant to provide funds to continue implementation of activities identified in an approved diagnostic study and implementation plan that were not funded in the initial project implementation grant.

Subp. 15. **Project coordination team.** "Project coordination team" means the public interagency group established in Minnesota Statutes, section 115.103, subdivision 1.

Subp. 16. **Project development.** "Project development" means the development of a diagnostic study and implementation plan.

Subp. 17. **Project development grant.** "Project development grant" means a grant from the agency to the project sponsor for the preparation of a diagnostic study and implementation plan.

Subp. 18. **Project implementation.** "Project implementation" means the implementation of an approved diagnostic study and implementation plan or their equivalent.

Subp. 19. **Project implementation grant.** "Project implementation grant" means a grant from the agency to the project sponsor for the implementation of a diagnostic study and implementation plan or their equivalent.

Subp. 20. **Project sponsor.** "Project sponsor" means the local unit of government that applies for a grant, enters into a grant contract, and is responsible for development and implementation of the project.

Subp. 21. **Water pollution.** "Water pollution" has the meaning given it in Minnesota Statutes, section 115.01, subdivision 5.

Subp. 22. **Waters of the state.** "Waters of the state" has the meaning given it in Minnesota Statutes, section 115.01, subdivision 9.

Subp. 23. **Water of concern.** "Water of concern" means the specific water of the state which the project is focused on improving or protecting.

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7076.0120 AVAILABLE ASSISTANCE.

Subpart 1. **Financial assistance.** There are two types of grants available for nonpoint source projects: (1) project development grants, and (2) project implementation grants. The grants are for a maximum of 50 percent of the eligible cost of the project. Grants must be awarded, within the limits of available appropriations, to those applicants having the highest priority.

Subp. 2. **Technical assistance.** The agency may provide technical assistance to local units of government in order to ensure efficient and effective development and implementation of projects. Technical assistance must be given to local units of government that receive grants, within the limits of available resources.

7076.0130 ELIGIBILITY CRITERIA.

Subpart 1. **Eligible applicants.** Only local units of government are eligible to apply for grants and receive technical assistance. A local unit of government is eligible to apply for state matching grants and request technical assistance if it has the following:

A. the authority to coordinate and enter into contracts with local, state, and federal agencies and private organizations for the purpose of carrying out a project;

B. the authority to generate cash revenues and in-kind contributions for the local share of a project; and

C. the authority to adopt, implement, and enforce official controls.

Subp. 2. **Eligible costs.** Project costs are eligible for state matching grants if the costs are reasonable and necessary and allocable for the development of a diagnostic study and implementation plan, or for the implementation of the plan, and if the costs are related to any of the following activities:

A. water quality monitoring, water resource and project area data and information collection, data and information analysis and assessment, and related tasks;

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B. fiscal and management activities including report preparation;

C. selection, design, layout, and installation of best management practices;

D. development, review, and inspection of installation, operation, and maintenance procedures for best management practices;

E. development and implementation of public education materials and activities;

F. development and implementation of official controls;

G. acquisition of easements and property; and

H. other activities determined by the agency or established by federal regulation to be necessary to develop and implement the project.

Subp. 3. **Ineligible costs.** Ineligible costs include any costs that are not related to the activities in subpart 2. In addition, the following costs are ineligible whether or not they relate to the activities in subpart 2:

A. installation of best management practices before the grant award;

B. operation and maintenance of best management practices;

C. activities regulated by the National Pollutant Discharge Elimination System permit program, parts 7001.1000 to 7001.1100; the State Disposal System permit program; the Petroleum Tank Release Clean-up 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;

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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.

7076.0140 NOTICE OF GRANT AVAILABILITY.

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Subpart 1. **Notice.** The agency will publish in the State Register a notice that applications for project development grants and project implementation grants will be accepted whenever the agency determines that funds are available to award the grants. The notice will contain a deadline for application submittal, which must be no less than 60 days from the date of publication.

Subp. 2. **Notification list.** The agency shall maintain a list of those local governmental bodies that wish to be notified of grant application periods. Any local governmental body that wishes to be placed on the list shall notify the agency by writing to the director of the public information office. Whenever the agency publishes notice in the State Register, the agency shall mail notice of the grant application period to those local governmental bodies on the list.

Subp. 3. **Grant application periods.** The agency may establish a grant application period from time to time but there must be at least one application period each calendar year if funds are available.

7076.0150 GRANT APPLICATION.

Subpart 1. **General requirements.** The grant application must be submitted by the local unit of government that will be the project sponsor. A grant application must be submitted in a timely fashion to be considered. The grant application must be submitted on a form provided by the agency and must contain the information required in the form and by this part.

Subp. 2. **Project development grant.** An applicant submitting an application for a project development grant must submit the following information:

A. a resolution by the local unit of government that will be the project sponsor, authorizing the filing of the application and designating an official authorized to execute the grant application, the grant contract, and other related project documents;

B. written documentation that the project sponsor has

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consulted with soil and water conservation districts and watershed districts in the project area, in preparing the grant application;

C. identification of agencies and organizations that will be involved in project development;

D. resolutions from each participating local unit of government which identifies their role in project development and identification of their contribution to the local share of project development costs;

E. the amount of grant funding requested;

F. a list identifying the amount, type, and source of the local share;

G. a work plan and schedule that contain the following:

(1) the identification of each water of the state that will be affected by the project;

(2) a description of the existing or potential surface and ground water problems that are to be addressed in the project;

(3) a work plan listing the activities that the grant would make possible; and

(4) a schedule containing milestones for project development;

H. a local water plan that provides an inventory of existing physical and hydrologic information on the project area, a general identification of water quality problems, and goals for resource use, and demonstrates a local commitment to water quality protection or improvements; and

I. documents required by state or federal statutes, rules, and regulations.

Subp. 3. **Project implementation grant.** An applicant submitting an application for a project implementation grant shall submit the following information:

A. a resolution by the local unit of government that will be the project sponsor, authorizing the filing of the application and designating an official authorized to execute

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the grant application, the grant contract, and other related project documents;

B. written documentation that the project sponsor has consulted with soil and water conservation districts and watershed districts in the project area, in preparing the grant application;

C. a diagnostic study and implementation plan approved under part 7076.0260, or an equivalent study and plan that addresses the requirements of a diagnostic study and implementation plan and that has been approved under part 7076.0260 and which contains a local water plan that provides an inventory of existing physical and hydrologic information on the project area, a general identification of water quality problems, and goals for resource use, and demonstrates a local commitment to water quality protection or improvements;

D. resolutions from each participating local unit of government that identify their role in project implementation and their contribution to the local share of project implementation costs;

E. a detailed work plan and schedule for project implementation during the grant period;

F. a detailed budget for the grant period including the identification of the amount requested in the grant;

G. a list identifying the amount, type, and source of the local share;

H. a description of the work and the budget for project implementation beyond the grant period, including an indication of whether the project sponsor anticipates applying for a project continuation grant amendment; and

I. documents required by state or federal statutes, rules, and regulations.

7076.0160 REJECTION OF GRANT APPLICATION.

Subpart 1. **Grounds.** An application for a project development grant or a project implementation grant may be rejected by the commissioner for the following reasons:

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A. an ineligible applicant;

B. ineligible costs;

C. a late submittal; or

D. failure to comply with any requirement of statute or rule.

Subp. 2. **Procedure.** The commissioner shall review each grant application within 30 days after the deadline for application submittal. The commissioner shall notify each rejected grant applicant of the rejection of its application and the reasons for the rejection.

Subp. 3. **Effect of rejection.** A grant applicant whose application is rejected for a reason other than for late submittal has 14 days from receipt of the notice of rejection to correct any deficiencies, if correction is possible. If the application is corrected within the 14 days, the application must be accepted and the project must be ranked with other approved grant applications. An application that cannot be or is not corrected must not be further considered. A grant applicant whose application is rejected and not corrected must reapply in a subsequent application period in order to be considered for a grant.

7076.0170 PROJECT RANKING.

Subpart 1. **Process of ranking.** Upon completion of the commissioner's review of the grant applications for acceptability, the agency shall rank the acceptable grant applications in order of priority. Each project for which an acceptable grant application has been submitted must be awarded the number of priority points the project is entitled to under subparts 2 and 3. The project with the highest number of priority points will be given the highest priority. All projects will be given a ranking depending on the number of points awarded. The project development grant applications must be ranked separately from the project implementation grant applications.

Subp. 2. **Priority points for project development grant**

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applications. The following criteria must be used to determine the number of priority points ~~a project for which a project development grant application has been submitted is entitled~~ to be awarded in the evaluation of each project development grant application. The agency shall award each project between zero and ten points under each of the following criteria, depending on how well the project satisfies the criterion. The number of points awarded under each criterion must be added together to determine the project's total point value. This total number must be used to determine the project's overall ranking and priority. The criteria are as follows:

A. the extent to which the proposed project demonstrates a high potential for project success based on community support and involvement as well as participation, coordination, and cooperation of federal, state, and local agencies and units of government for water quality protection and improvement;

B. the extent to which the proposed project takes place where local units of government have adopted and implemented authorities or official controls to abate or prevent water pollution from nonpoint sources;

C. the extent to which the water of concern is identified as a priority water in the local water plan;

D. the extent to which the proposed project affects waters identified in the statewide resource assessment conducted under Minnesota Statutes, section 115.095, as waters that could not be expected to attain or maintain compliance with applicable water quality standards or goals without additional control of nonpoint sources;

E. the extent to which the project demonstrates a likelihood of transferability to similar resources;

F. the extent to which the project is of a size and scale to promote successful project management and water quality protection and improvement; and

G. the priority placed on each project by the project coordination team.

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Subp. 3. **Priority points for project implementation grant applications.** The following criteria must be used to determine the number of priority points ~~a project for which a project implementation grant application has been submitted is entitled~~ to be awarded in the evaluation of each project implementation grant application. The agency shall award each project between zero and ten points under each of the following criteria, depending on how well the project satisfies the criterion. The number of points under each criterion must be added together to determine the project's total point value. This total number must be used to determine the project's overall ranking and priority. The criteria are as follows:

A. the extent to which the project demonstrates a high potential for successful water quality protection and improvement based on a comparison of existing water quality and the project's goals and objectives with maximum contaminant levels and recommended allowable limits for drinking water, water quality standards, and regional lake and stream water quality criteria published by the agency, the Minnesota Department of Health, and the United States Environmental Protection Agency;

B. the extent to which the project employs best management practices which provide a technically and economically feasible means to abate or prevent water pollution from nonpoint sources;

C. the extent to which the project maximizes water quality protection or improvement relative to the cost of project implementation;

D. the extent to which the project goals and objectives are consistent with state water quality management plans and other applicable state and federal resource management programs;

E. the extent to which the project demonstrates a high potential for project success based on community support and involvement as well as participation, coordination, and cooperation of federal, state, and local agencies and units of

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government for water quality protection and improvement;

F. the extent to which the project demonstrates a significant degree of transferability to similar local units of government; and

G. the priority placed on each project by the project coordination team.

Subp. 4. **Project coordination team.** The project coordination team has 60 days from the close of the application period to assign points to each project seeking a grant. In the event that the project coordination team fails to assign points to all projects with approved grant applications, the projects must be ranked without considering any points under the category for the project coordination team. The project coordination team must use the criteria established in Minnesota Statutes, section 115.098, to assign points to each project seeking a grant.

7076.0180 ALLOCATION OF FUNDING.

Subpart 1. **Project continuation grant amendments.** Each year by March 1, the agency shall determine how much of the available funds will be set aside to meet that year's anticipated requests for project continuation grant amendments. If the agency subsequently determines that the amount set aside for project continuation grant amendments is more than is required for grant amendments in that year, the agency may reallocate this money to other project development grants and project implementation grants or carry over the money to another grant application period.

Subp. 2. **Grant fund allocation.** Within 90 days of the close of an application period, the agency shall determine how much of the remaining funds, after setting aside funds for project continuation grant amendments, will be made available for project development and project implementation grant awards. In deciding how much money to make available for new grant awards, the agency shall consider the necessity to have money available for subsequent grant periods, the necessity to

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have money available for anticipated project continuation grant amendments in the next year, and other factors relating to the agency's ability to ensure that money will be available for upcoming projects.

Subp. 3. **Development; implementation split.** Within 90 days of the close of an application period, the agency shall determine how much of the funds available for new grants in that application period will be available for project development and project implementation grants. In determining the allocation of funds between project development and project implementation grants, the agency shall consider:

A. the availability and conditions for use of federal funds; and

B. the phasing in and continuity of projects in the program.

If the money intended for project development or project implementation grants, or both, is not awarded during a grant period, the agency may reallocate the funds to the other kind of grant or to a subsequent grant period.

7076.0190 SELECTION OF PROJECTS FOR GRANT AWARD.

Subpart 1. **Ranking.** The agency shall complete its ranking of all projects for which an acceptable grant application has been submitted within 90 days of the close of the application period. The agency shall rank development projects separately from implementation projects.

Subp. 2. **Projects funded.** The agency shall select those projects that will be awarded grant funds by awarding grants to the highest priority project development and project implementation applications within the limits of available funds established under part 7076.0180, subpart 2. A project that receives less than 40 points will not be considered for award of grant funds.

Subp. 3. **Agency decision.** All decisions of the agency in ranking projects and awarding grants must be made at a regular or special board meeting.

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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.

7076.0200 PROJECT CONTINUATION GRANT AMENDMENT.

Subpart 1. **Eligibility.** A project sponsor who has been awarded a project implementation grant is eligible for a project continuation grant amendment to continue the project after the expiration of the initial grant. The requirements that applied to the initial grant apply to the project continuation grant amendment. A project sponsor is eligible for one project continuation grant amendment on a particular project.

Subp. 2. **Request.** A project sponsor who seeks a project continuation grant amendment shall submit a request for the grant amendment in the year that the activities funded through the initial project implementation grant will be completed and additional funds will be required to continue project implementation. The request must be submitted on a form provided by the agency and may be submitted at any time during the calendar year the funds will be needed. A project sponsor who fails to submit a request for a project continuation grant amendment in the year the funds are required forfeits the right to an amendment. That project sponsor may apply in a subsequent grant period to continue the project and compete with other applicants for a project implementation grant.

Subp. 3. **Approval.** The agency shall approve the project sponsor's request for a project continuation grant amendment if it meets the following conditions:

A. the project sponsor has satisfied the terms and conditions of the grant to date; and

B. the project sponsor has identified the source of the local share of funds necessary for the project continuation

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grant amendment.

7076.0210 GRANT CONDITIONS.

Subpart 1. **Amount.** A grant that is made must be for the amount requested by the applicant, up to a maximum of 50 percent of the eligible cost of project development or project implementation.

Subp. 2. **Grant period.** The grant period for a project development grant will be for a period of two years. The grant period for a project implementation grant will be for a period of three years and may be extended an additional three years with agency approval of a request for a project continuation grant amendment in accordance with part 7076.0200.

Subp. 3. **Grant contract.** The project sponsor must enter into a contract with the agency before a grant will be awarded. The contract must include the provisions in part 7076.0220.

Subp. 4. **Records.** The project sponsor shall maintain all records relating to the receipt and expenditure of grant funds for a period of at least three years from the date of termination of the grant contract.

Subp. 5. **Audit.** The project sponsor must agree that the books, records, documents, and accounting procedures and practices of the project sponsor relevant to this program may be examined at any time by the commissioner or the commissioner's designee.

Subp. 6. **Annual progress report.** The project sponsor shall submit an annual progress report to the commissioner by February 1 of each year the grant is in effect. The report must include the following information:

A. a discussion of work progress relative to the schedule, and difficulties encountered meeting the schedule during the year;

B. a discussion of the project findings appropriate to the work conducted during the year;

C. a report of expenditures in the year and those anticipated during the upcoming year;

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D. a discussion and summary analysis of monitoring data and a discussion of the changes in water quality that appear to have resulted from the protective and restorative activities implemented during the year; and

E. water quality monitoring data collected during the year in the format required by the agency.

Subp. 7. **Mid-year update.** The project sponsor shall give the commissioner a mid-year update by August 1 of each year the grant is in effect. The mid-year update must include a brief report on project progress and difficulties encountered in meeting the project schedule.

Subp. 8. **Monitoring plan.** The project sponsor shall submit a monitoring plan to the commissioner within 60 days of the award of the grant. The monitoring plan must be revised annually and submitted to the commissioner by January 31. The monitoring plan must comply with part 7076.0230.

Subp. 9. **Diagnostic study and implementation plan.** The project sponsor for a project development grant shall submit to the commissioner before the final grant payment is made a diagnostic study and implementation plan that meets the requirements of parts 7076.0240 and 7076.0250.

Subp. 10. **Eligible costs.** No grant funds shall be used to reimburse the project sponsor for costs incurred after the end of the contract period.

7076.0220 GRANT CONTRACT.

Subpart 1. **Contents.** The agency and the project sponsor shall enter into a grant contract. The grant contract must:

A. establish the terms and conditions of the grant;

B. provide that the project sponsor may enter into contracts, under terms and conditions specified by the agency, to complete the work specified in the contract;

C. provide that the cost overruns are the sole responsibility of the project sponsor;

D. require that the project sponsor submit periodic progress reports and a final report to the agency in a format

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prescribed by the agency; and

E. incorporate terms and conditions required by federal or state statutes, rules, and regulations.

Subp. 2. **Amendments.** A grant contract may be amended upon agreement of the agency and the project sponsor.

Subp. 3. **Contract period.** Grant contracts for project development will be for a period of up to two years. Grant contracts for project implementation will be for a period of up to six years. The agency may allow a one-year extension of either of these grant contracts.

7076.0230 MONITORING PLAN.

Subpart 1. **Requirements.** The monitoring plan required to be submitted to the commissioner as a condition of the grant must:

A. identify and provide rationale for the selection of monitoring sites, monitoring frequency, and parameters to be monitored; and

B. identify laboratories that will do analyses and explain their quality assurance and quality control procedures.

Subp. 2. **Review.** The commissioner will review the monitoring plan and approve it or identify deficiencies in writing within 45 days of its receipt. The project sponsor shall have 15 days to correct any deficiencies.

Subp. 3. **Grant payment.** No grant payment shall be paid after March 31 in any year in which a monitoring plan has not been approved.

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

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methods, procedures, model, and other tools used to prepare and complete the diagnostic study.

Subp. 2. **Description of water of concern.** The diagnostic study must contain a detailed description of the water of concern that includes:

A. a summary of historical uses and changes resulting from water quality degradation;

B. a discussion of previous studies and other historic baseline physical, chemical, and biological data; and

C. current data or information for the following:

(1) if the water of concern is a lake, the description shall include the following:

(a) identification or measurement of lake surface area, maximum depth, average depth, one in ten year low and high as well as average hydraulic residence time, temperature profiles, secchi disk transparencies, the area of the watershed draining to the lake, its tributaries, their estimated contribution to inflows, and a hydrologic budget including groundwater flow;

(b) measurement of dissolved oxygen, total phosphorus, dissolved inorganic phosphorus, total Kjeldahl nitrogen, nitrite plus nitrate nitrogen, total suspended solids, total alkalinity, chloride concentrations, color, pH, and conductivity; determination of mass loadings of total phosphorus, total Kjeldahl nitrogen, and total suspended solids from major tributaries and completion of nutrient and sediment budgets for the lake;

(c) measurement of average summer epilimnetic chlorophyll a, a description of predominant phytoplankton, zooplankton, and submerged, floating, and emergent vascular plant communities; measurement of fecal streptococcus and fecal coliform bacteria where human health may be impacted; and

(d) a summary of available fisheries information;

(2) if the water of concern is a stream, the

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description shall include the following:

(a) identification or measurement of stream length, sinuosity, order, substrate, estimated maximum high flow for 24 consecutive hours that has a recurrence interval of 25 years, mean flow for the available period of record, and annual minimum flow for seven consecutive days that has a recurrence interval of ten years;

(b) measurement of flow and biochemical oxygen demand, total phosphorus, nitrite plus nitrate nitrogen, ammonia nitrogen, organic nitrogen, total dissolved solids, total suspended solids, and diurnal dissolved oxygen concentrations, turbidity, pH, and conductivity;

(c) measurement of fecal streptococcus and fecal coliform bacteria where human health may be impacted; and

(d) completion of invertebrate and fishery assessments using standard benthological and ichthyological techniques; identification of significant biological habitats including riparian vegetation and spawnings areas; and

(3) if the water of concern is an aquifer, the description shall include the following:

(a) identification or measurement of the aquifer physical type, size, temperature, saturated thickness, recharge sources, discharge sources transmissivity, hydraulic residence time, range of hydraulic gradients, and underlying lithology and stratigraphy;

(b) measurement of chemical oxygen demand, total organic carbon, total Kjeldahl nitrogen, ammonia nitrogen, nitrite plus nitrate nitrogen, total phosphorus, chloride, sulfate, calcium, magnesium, iron, manganese, potassium, sodium, bicarbonate, and alkalinity concentrations, oxidation potential, pH, and specific conductance;

(c) measurement of organic compounds, pesticides, and metals in areas where they are pollutants of concern;

(d) measurement of fecal streptococcus and fecal coliform bacteria where human health may be impacted; and

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(4) if the water of concern is water other than a lake, stream, or aquifer, the data and information requirements will be determined jointly by the agency and the project sponsor.

Subp. 3. **Description of project area.** The diagnostic study must contain a detailed description of the project area that includes:

A. a map of the project area;

B. an aerial photo of the project area;

C. maps of general topographic relief based on United States Geological Survey topographic maps;

D. a map of the project area divided into subunits on a hydrologic basis including boundaries and flow directions for each subunit;

E. a description of important aquifer systems, confining layers, and flow characteristics;

F. a description of ground and surface water interconnections, such as recharge and discharge areas;

G. a description of known geologic conditions, such as karst areas, buried valleys, or sand plains that may pose concerns relating to water quality;

H. a description of waters of the state and public drainage ditches, including dams and control structures;

I. soil:

(1) a general soils map and description of soils infiltration characteristics; and

(2) a map of erosion-prone soils;

J. land use:

(1) existing and future land uses;

(2) areas served by storm sewers, sanitary sewers, and public water systems;

(3) the location of community public water supply, intakes, and wells;

(4) irrigated acreage;

(5) domestic animal density and feedlots;

(6) on-site wastewater treatment systems;

(7) existing management practices;

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(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;

(14) wetlands identified under the National Wetlands Inventory and a summary of applicable management plans;

(15) areas delineated as floodplains;

(16) areas with known flooding problems;

(17) a summary of the state ecological and management classifications;

(18) a summary of state management plans for fish and wildlife;

(19) unique features and scenic areas with relationships to water including state designated natural and scientific areas, outstanding resource value waters, areas containing county, state, and federal rare and endangered species and other features such as waterfalls and springs;

(20) the ownership of local, state, and federal Indian tribal lands;

(21) lands with easements that relate to water resources;

(22) population characteristics; and

(23) a summary of recreational land uses;

K. precipitation:

(1) a map and list of the location of precipitation gauging stations in the project area;

(2) a map showing isolines of normal annual total precipitation;

(3) a map showing isolines of normal precipitation in inches for the period May to September; and

(4) a summary of precipitation information for

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the project area; and

L. hydrology:

(1) an estimate of the maximum high flow for 24 consecutive hours that has a recurrence interval of 25 years, mean flow for the available period of record, and annual minimum flow for seven consecutive days that has a recurrence interval of ten years;

(2) a description of permitted withdrawals from lakes and streams, including location, source, use, and amounts withdrawn;

(3) a description of protected levels or flows that have been established for lakes and streams;

(4) a description of known water use conflicts, including those caused by groundwater pumping, that affect surface waters;

(5) a description of wells covered by state appropriation permits including location, amounts of water appropriated, type of use, and aquifer source;

(6) a description of known well interference problems and water use conflicts; and

(7) a list of state observation wells including location, unique well number, aquifers measured, years of record, and average monthly levels.

Subp. 4. **Analysis and assessment.** The diagnostic study must contain an analysis and assessment of the data and information collected as a requirement of subparts 2 and 3 including the following:

A. the identification of existing and potential water quality problems;

B. the identification of water quality goals for the water of concern;

C. the identification of project objectives in terms of:

(1) specific water chemical, biological, and physical measurements; and

(2) economic, recreational, and health factors;

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D. an estimate of the pollutants coming from the subunit of project area defined on a hydrologic basis and the identification of the target levels of pollutant reduction necessary to meet the project objectives and water quality goals; and

E. the identification and ranking of the subunit of the project area defined on a hydrologic basis into priority management areas on which to focus implementation of best management practices.

Subp. 5. **Exemption.** Upon written request from the project sponsor, the agency may allow an exemption from a specific diagnostic study requirement that does not provide data or information useful for diagnosis of the problem or solutions.

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

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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 nonpoint source pollution;

H. a list of any federal ~~or~~, state, or local permits and approvals required to complete the project; and

I. an opinion and supporting documentation from the project sponsor's attorney that the project sponsor and participating local units of government have the legal authority to implement the project.

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

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problems, sources of pollution, and project goals and objectives for water quality protection and improvement;

C. the implementation plan provides a technically feasible means to abate nonpoint sources of water pollution and achieve project objectives; and

D. the diagnostic study and implementation plan are consistent with state and federal statutes, rules, and regulations.

Subp. 2. **Reasons for disapproval.** If the diagnostic study and implementation plan are disapproved, the commissioner shall provide the project sponsor with a written statement of reasons for disapproval.

Subp. 3. **Resubmittal.** A disapproved diagnostic study and implementation plan must be revised by the project sponsor and resubmitted to the commissioner. Upon receipt of the revised diagnostic study and implementation plan, the commissioner shall review the revised diagnostic study and implementation plan.

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.

7076.0280 GRANT PAYMENTS.

Subpart 1. **Reimbursement.** The project sponsor may submit a request for reimbursement of expenditures for each of the

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standard calendar quarters ending March 31, June 30, September 30, and December 31. The agency shall pay the reimbursement within 45 days of the request if the grantee is in compliance with conditions of the grant contract and requirements of parts 7076.0100 to 7076.0290.

Subp. 2. **Final payment.** The agency shall withhold reimbursement on the final ten percent of the grant contract amount until the agency is satisfied that the project has been completed in accordance with the terms of the grant contract and parts 7076.0100 to 7076.0290.

Subp. 3. **Withholding of reimbursement.** The agency may withhold reimbursement if the project sponsor has failed to comply with any requirements of the grant contract or parts 7076.0100 to 7076.0290. The funds will not be released until the agency determines that the project sponsor has corrected the deficiencies causing noncompliance.

Subp. 4. **Advance.** The project sponsor may submit a request for an advance of grant funds after the commissioner approves the project monitoring plan. The advance is limited to ten percent of the grant award or $50,000, whichever amount is less.

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.

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